

***United States Court of Appeals  
for the Second Circuit***



**APPENDIX**



74-1119

IN THE UNITED STATES COURT OF APPEALS  
FOR THE SECOND CIRCUIT

AVIS RENT A CAR SYSTEM, INC.,

Plaintiff-Appellee

v.

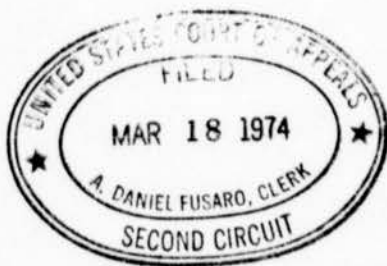
UNITED STATES OF AMERICA,

Defendant-Appellant

ON APPEAL FROM THE UNITED STATES  
DISTRICT COURT FOR THE EASTERN  
DISTRICT OF NEW YORK

APPENDIX

Volume I (pp. 1-200)



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70C 70

AVIS RENT A CAR SYSTEM, INC. vs. U.S.A.

DATE	FILINGS—PROCEEDINGS	AMOUNT REPORTED IN EMOLUMENT RETURNS
1/20/70	COMPLAINT FILED. SUMMONS ISSUED.	1
1-21-70	Summons returned and filed. Deft served on 1/21/70 & by certified mail.	2
3-23-70	By ROSLING, J.- Order filed extending time for deft to answer complaint to May 20, 1970. (P/C mailed to attys)	3
5-26-70	ANSWER of deft filed. (certificate of srv on 5-21-70)	4
6/19/70	Plaintiff's Notice of Motion and Memorandum of Law filed for an Order directing that plttf's Jury Demand be accepted for filing. Ret: 7/17/70 (Affid. of service by mail 6/18/70)	5/6
7-13-70	Deft's response to plttf's motion pursuant to Rule 6(b) and 39(b) filed.	7
7-17-70	Before ROSLING, J.- Motion for jury demand etc. SUBMITTED.	
7-17-70	By BARTELS, J.- Order filed extending time for plttf to answer interrogatories by deft, to 9-11-70. (P/C mailed to attys)	8
7-17-70	By BARTELS, J.- Order filed granting plttf's motion for leave to file jury demand and extending deft's time to serve an amended answer etc, until such time as the within case is ready for trial.	9
7-25-70	JURY DEMAND filed. (Plttf)	10
9-16-70	By ROSLING, J.- Order filed extending time for plttf to answer interrogatories by deft, to 9-25-70. (P/C mailed to attys)	11
9-29-70	Plttf's answers to deft's interrogatories filed.	12
9-29-70	Plttf's objections to deft's interrogatories 1,2,3,4,5 & 9 filed.	13
12-7-70	By ROSLING, J.- Order on stip filed, that plttf will answer each of the numbered interrogatories served on or about 7-9-70 amended etc on or before Dec 10, 1970 etc. (P/C mailed to attys)	14
12-23-70	By ROSLING, J.- Order filed extending time for plttf to answer the amended interrogatories to 12-24-70. (P/C mailed to attys)	15
12-24-70	Plttf's answers to deft's interrogatories filed.	16
2-5-71	Before ROSLING, J.- Case called & adjd to 5-7-71 at 2:15 P.M.	
5-10-71	Deft's Notice Of Motion for an Order requiring Plttf. to Answer certain Interrogatories ret. 5-14-71, Filed.	17
5-13-71	Affidavit of Carl R. Francis and memorandum filed.	18/19
5-14-71	Before ROSLING, J.- Case called - adjd to 6-25-71 at 2:15 P.M.	
5-14-71	Before ROSLING, J.- Deft's motion to compel plttf to answer interrogatories adjd to 6-25-71 at 2:15 P.M.	
6-25-71	Affidavit of Donald A. Statland filed.	20

0 CIVIL DOCKET AVIS RENT A CAR SYSTEM, INC VS U. S. A.

DATE	FILINGS-PROCEEDINGS	CLERK'S FEES		AMOUNT REPORTED IN ENCLOSURE RETURNS
		PLAINTIFF	DEFENDANT	
5-25-71	Before ROSLING, J.- Case called - Marked ready 24 hrs. notice - Notice not to be given until 12-17-71.			
6-25-71	Before ROSLING, J.- Hearing on deft's motion to compel pltff to answer interrogatories etc. - Motion argued - Decision reserved.			
8-18-71	By ROSLING, J.- MEMORANDUM & ORDER FILED. It is ordered that the Gov't's motion to compel answer to interrogatories 4, 5, & 9 is denied without prejudice to renewal after a pretrial proceeding has been had; and further ordered that a pretrial be set down for hearing on 9-24-71 at 10:00 A.M. The Clerk is directed to forward to attys for the parties the usual form of order initiating such proceeding. (copy of memorandum & order mailed to U.S. Atty Robert A. Morse, 225 Cadman Plaza East E.lyn and the Atty General State of New York, and to Gilbert, Segall & Young, Esq. 405 Park Ave., atty for pltff. )		21	
9-24-71	Before ROSLING, J.- Case called - Pre-trial hearing held and concluded - Decision reserved - Briefs to be submitted by 10-22-71.			
10-18-71	Stenographer's transcript filed.		22	
12/7/71	By Rosling, J.- Order of 12/6/71 extending time for filing briefs re deft's motion to compel pltff to answer deft's interrogatories to 2/29/72 filed.		23	
3/23/72	By Rosling, J.- Order of 3/22/72 extending time for filing briefs re deft's motion to compel pltff to answer deft's interrogatories to 3/31/72 filed.		24	
4-12-72	Affidavit of Robert Layton filed.		25	
4-12-72	Notice of motion with memorandum filed, extending time for deft to file any further brief re: motion to compel answers to interrogatories etc. (ret Apr 14, 1972)		26	
4-14-72	Before ROSLING, J.- Deft's motion extending time to file any further brief etc. MARKED OFF.			
4-24-72	Supplemental memorandum filed, in support of defts motion for an order pursuant to Rule 37 requiring pltff to answer deft's interrogatories.		27	
4-29-72	Pltff's memorandum filed, in opposition to deft's renewed motion, requiring pltff to answer certain interrogatories.		28	



DATE	FILINGS-PROCEEDINGS	CLERK'S FEES		AMOUNT REPORTED IN EMOLUMENT RETURNS
		PLAINTIFF	DEFENDANT	
6/19/72	By Rosling, J.-Memo & Order of 6/16/72 re: discovery & referring matter to Schiffman, J. filed. Settle order on notice on/before 6/28/72 (Copies of memo & order mailed to parties)			29
6-19-72	Copy of letter to U.S. Atty re encl. of memorandum & order dated 6-19-72; filed.			30
6-30-72	Letter from Gilbert, Segall & Young, by Robert Layton dated 6-27-72 filed.			31
7-3-72	By ROSLING, J.- Order dtd 6-30-72 filed, when plttf has complied with foregoing order, will be deemed to constitute the answers to deft's interrogatories 4, 5, & 9. Supervision over compliance with this order is referred to the U.S. Magistrate Schiffman including fixing of dates for compliance, conducting of necessary hearings and reporting his proceedings and recommendations to the Court. (P/C mailed to attys) <i>[Signature]</i>			32
12/1/72	By Schiffman, U.S. Mag.-Order dtd 11/28/72 re discovery & referring case back to Rosling, J. filed.			33
2-15-73	Govt's five notices to take depositions filed.			34/35/36/37/
2/16/73	Deft's amended answer and counterclaim filed			39
2/20/73	Deft's notice to take depositions of Rufus E. Richardson, T.J. Edwards, Troy Patton, & Ronald E. Seibert filed			40
2/20/73	Deft's notice to take depositions of Robert Hinnaugh, Harold Solice, & Dudley Pope filed			41
2/20/73	Deft's notice to take depositions of James Adams & Russell F. Spadley filed			42
2/20/73	Deft's notice to take depositions of Ellis Kemp, George Brooder, & Leland Morse filed			43
2/20/73	Deft's notice to take deposition of Louise Askey, Della Christenson, Irma O'Brien, Anne Schrag, Robert Gosling & Janet Steiger filed			44
2/22/73	Notice of taking depositions filed.			45
2/22/73	Notice to take deposition of John Connolly filed.			46
2/22/73	Notice of taking deposition of Gordon Bradford & Irene Snow filed.			47
2/22/73	Notice of taking depositions filed. (Bruce McCoy, et al).			48
4/9/73	Twenty-nine depositions filed.			49-77
7/27/73	Deposition of Michael E. Conelia filed.			73
7/27/73	Deposition of Rich Latorale filed.			74



UNITED STATES DISTRICT COURT  
EASTERN DISTRICT OF NEW YORK

----- x  
 AVIS RENT A CAR SYSTEM, INC., : [Filed -- January 20, 1970]  
                                   Plaintiff, :  
                                   -against- : COMPLAINT  
 UNITED STATES OF AMERICA, : Civil Action No.  
                                   Defendant. : **70C 70**  
 ----- x

Plaintiff, by its attorneys, Gilbert, Segall and Young,  
for its complaint alleges:

1. This action arises under the Internal Revenue Code of 1954 and is brought pursuant to the provisions of Title 28, United States Code, Section 1346(a)(1) as hereinafter more fully appears.
2. Plaintiff is a corporation organized under the laws of the State of Delaware, with its principal place of business at Garden City, New York in the Eastern District of New York.
3. Defendant is the United States of America.
4. Plaintiff timely filed in the office of the District Director of Internal Revenue at Brooklyn, New York, its Federal Insurance Contributions Act ("FICA"), Federal Unemployment Tax Act ("FUTA") and Federal Withholding (Collection of Income Tax at Source on Wages) ("Withholding") returns for the years 1962, 1963, 1964, 1965 and 1966 and paid the amounts shown thereon to be due.

5. After audit, on January 17, 1968 and February 23, 1968, the Commissioner of Internal Revenue assessed deficiencies against plaintiff for the years 1962, 1963, 1964, 1965 and 1966 in the total amounts of \$105,733.20 for FICA, \$6,124.51 for FUTA and \$199,926.46 for Withholding.

6. The basis for the assessments was the claim by the Commissioner of Internal Revenue that certain individuals engaged from time to time by plaintiff as "car shuttlers" were employees within the meaning of the Internal Revenue laws so that the FICA, FUTA and Withholding provisions were applicable to the amounts paid to them by plaintiff.

7. On March 26, 1968 plaintiff paid \$31,178.42 with respect to the assessments, such amount constituting a divisible portion of the additional taxes assessed. .

8. On April 30, 1968 plaintiff timely filed claims for refund of the additional taxes paid with respect to the assessments and for abatement of the balance of the additional taxes assessed.

9. By notice dated April 7, 1969, the Internal Revenue Service disallowed in full plaintiff's claim for refund and abatement of the additional taxes assessed.

10. The assessments made by the Commissioner of Internal Revenue were erroneous, and illegal; and the additional taxes paid with respect to the assessments were erroneously and illegally collected by reason of the fact that the "car shuttlers" engaged by plaintiff were not the employees of plaintiff within the meaning of the Internal Revenue laws.

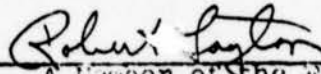


11. There is now due and owing to plaintiff the sum of \$31,178.42 together with appropriate interest from March 26, 1968.

WHEREFORE, plaintiff demands judgment against the defendant in the sum of \$31,178.42 with appropriate interest from March 26, 1968, together with the costs and disbursements of this action.

GILBERT, SEGALL AND YOUNG  
Attorneys for Plaintiff

By



A Member of the Firm

Office & P.O. Address  
405 Park Avenue  
New York, New York 10022  
PLaza 2-9650

UNITED STATES DISTRICT COURT  
EASTERN DISTRICT OF NEW YORK

-----  
AVIS RENT A CAR SYSTEM, INC.,  
Plaintiff

v.

UNITED STATES OF AMERICA,  
Defendant  
-----

X  
X  
X [Filed-February 16, 1973]  
X  
X  
X CIVIL ACTION NO. 70-C-70  
X  
X ANSWER AND  
X COUNTERCLAIM  
X  
X

Pursuant to Stipulation of the parties and Order of Court dated July 17, 1970, granting the defendant leave to file and serve an Answer and Counterclaim at any time prior to trial, defendant, United States of America, herewith amends its Answer as follows:

1. Admits the allegations contained in paragraph 1 of the complaint.
2. Admits the allegations contained in paragraph 2 of the complaint.
3. Admits the allegations contained in paragraph 3 of the complaint.
4. Admits the allegations contained in paragraph 4 of the complaint.
5. Admits the allegations contained in paragraph 5 of the complaint.
6. Admits the allegations contained in paragraph 6 of the complaint.
7. Admits the allegations contained in paragraph 7 of the complaint.
8. Admits the allegations contained in paragraph 8 of the complaint.
9. Admits the allegations contained in paragraph 9 of the complaint.
10. Admits the allegations contained in paragraph 10 of the complaint.

[ - 2 - ]

COUNTERCLAIM:

1. This counterclaim has been authorized and requested by the Chief Counsel of the Internal Revenue Service, a delegate of the Secretary of the Treasury, and is brought by direction of the Attorney General of the United States.

2. Jurisdiction over this counterclaim is vested in the Court by virtue of 28 U.S.C. Section 1345.

3. The Commissioner of Internal Revenue made timely assessments against the plaintiff for the years 1962, 1963, 1964, 1965 and 1966 in the amounts of \$105,733.20 for Federal Insurance Contribution Act (F.I.C.A.) taxes, \$6,124.51 for Federal Unemployment Tax Act (F.U.T.A.) taxes, and \$199,926.46 for Federal Withholding Taxes, a total of \$311,784.17. The assessments were made on or about January 17, and February 23, 1968.

4. In addition to the unpaid taxes assessed against plaintiff as alleged in Paragraph 3 of this Counterclaim, accrued interest in the amount of \$46,560.93 was assessed against plaintiff on or about the same dates.

5. Proper notice and demand for payment of the total assessment has been served on plaintiff.

6. A total of \$34,406.65 has been paid by plaintiff or credited to plaintiff's account with respect to the assessment.

7. The sum of \$46,560.93, together with statutory interest, remains due and owing on account of this assessment.

[ - 3 - ]

WHEREFORE, defendant denies that plaintiff is entitled to a refund in the amount of \$31,178.42, or any other sum whatsoever, and demands that judgment for \$323,938.50, together with statutory interest and costs, be entered in its favor.

UNITED STATES ATTORNEY

By:

Assistant United States Attorney

OF COUNSEL:

Robert J. Hipple  
Trial Attorney  
Tax Division  
Department of Justice  
Washington, D. C. 20530  
Telephone: (202) 739-3379

UNITED STATES DISTRICT COURT  
EASTERN DISTRICT OF NEW YORK

.....  
 AVIS RENT A CAR SYSTEM, INC. : CIVIL ACTION  
 VS. : NO. 70-C-70  
 UNITED STATES OF AMERICA : [Filed April 9, 1973]  
 .....

Deposition of Charles M. Spradley,  
 1304 Taft Park, Metairie, Louisiana,  
 taken at 500 St. Louis Street, New  
 Orleans, Louisiana, on March 17,  
 1973.

Dietrich & Pickett, Inc.  
*Stenotypists*

333 ST. CHARLES AVENUE, SUITE 1221  
 NEW ORLEANS, LOUISIANA 70130-522-3111

1 APPEARANCES:

2 FOR THE PLAINTIFF:

3 STUART B. STILMAN, ESQ.  
4 ATTORNEY AT LAW  
5 900 OLD COUNTRY ROAD  
6 GARDEN CITY, NEW YORK 11530

6 FOR THE DEFENDANT:

7 ROBERT J. HIPPLE, ESQ.  
8 ATTORNEY AT LAW  
9 TAX DIVISION  
10 DEPARTMENT OF JUSTICE  
11 WASHINGTON, D. C. 20530

11 B. L. PICKETT,  
12 COURT REPORTER.

12 ...oOo...

13 S T I P U L A T I O N

14 IT IS STIPULATED AND AGREED by and  
15 between the parties that the testimony of  
16 CHARLES M. SPRADLEY is being taken at the time  
17 and place hereinbefore noted; that the testi-  
18 mony may be taken down in shorthand (Stenotype)  
19 by B. L. Pickett, Court Reporter, and by him  
20 transcribed, or transcribed under his super-  
21 vision. Formalities as to signing, sealing,  
22 certification and filing being waived. All ob-  
23 jections, except those as to the form of the  
24 question, shall be reserved until time of trial  
25 of the cause.

1 IT IS FURTHER STIPULATED AND AGREED  
2 that the witness may be sworn by B. L. Pickett,  
3 Court Reporter.

4 ....ooo....

5 CHARLES M. SPRADLEY,  
6 having been first duly sworn, was examined and  
7 testified as follows:

8 EXAMINATION

9 BY MR. HIPPLE:

10 Q Will you state your full name and address,  
11 please.

12 A Charles M. Spradley. Home address?

13 Q Yes.

14 A 1304 Taft Park, Metairie, Louisiana.

15 Q Your current occupation?

16 A I am City Manager for Avis Rent A Car.

17 Q How long have you been employed by Avis?

18 A I have been employed by Avis 15 and a  
19 half years.

20 Q Has the whole time been in New Orleans?

21 A No, sir, I was away for one year in Baton  
22 Rouge.

23 Q During the period 1962 to '66 were you in  
24 the New Orleans area?

25 A I was employed by Avis in New Orleans.



1 Q What positions did you hold during that  
2 period of time?

3 A '62, the first six months of '62 I was  
4 station manager at the airport, be-  
5 came City Manager in July of '62.

6 Q Have you been City Manager ever since?

7 A Been City Manager ever since.

8 Q In those capacities with Avis have you be-  
9 come familiar with the car shuttling  
10 operation of Avis?

11 A I am familiar with it, yes.

12 Q Would you describe what the shuttlers do,  
13 or did during that period?

14 A Well, the shuttlers transfer cars back  
15 and to the stations, from one station  
16 wherever it is needed, wherever the  
17 car is needed. If you have an over-  
18 flow downtown, you have to get them  
19 to the airport.

20 Q Could you estimate approximately how often  
21 you needed the shuttlers during that  
22 period?

23 A Well, it varied. Sometimes we didn't use  
24 them for a week and sometimes we used  
25 them Mondays or Thursdays at the



1 peak time when we needed cars to come  
2 back down, or Mondays to go back to  
3 the airport.

4 Q Were the shuttlers used only in the New  
5 Orleans area to move cars between  
6 the stations in New Orleans or did  
7 you have long-range shuttles?

8 A At times we would send shuttlers to, well,  
9 I would say in the area of Mobile,  
10 not beyond that, not to my knowledge  
11 as I remember, because it is too far  
12 beyond there.

13 Q Do you know how the shuttlers found out  
14 about the shuttling the first time?

15 A Well, I wouldn't know unless it is word of  
16 mouth. It passes on down. You get  
17 one independent shuttler and he  
18 passes it on down to the other one  
19 and then they come around and see if  
20 they are needed or if we are doing  
21 any shuttling that day.

22 Q Did Avis ever advertise in the newspaper,  
23 anything like that, for shuttlers?

24 A Oh, no.

25 Q When a person came in the first time to

1 shuttle a car, was he given any ex-  
2 planation or instructions in regard  
3 to the shuttling operation?

4 A No, we just told him we wanted this car  
5 delivered to the airport, or from  
6 the airport downtown and that was all  
7 was told to him, and he knew, being a  
8 local person, he knew how to get to  
9 the airport.

10 Q Was he required to fill out any personal  
11 information forms before he shuttled  
12 the car?

13 A To my knowledge, no.

14 Q Did Avis maintain a list of individuals  
15 who would shuttle cars for them?

16 A No, we didn't, no, not to my knowledge.

17 Q Did you keep records of any of the  
18 shuttlers' names or addresses, phone  
19 numbers?

20 A Occasionally we might keep a shuttler's  
21 phone number to tell him, you know,  
22 to call him up and say if you don't  
23 see him, tell him he might do some  
24 shuttling if he would come around  
25 this afternoon.

1 Q If you had an occasion where you needed  
2 five or six cars moved and you had  
3 no shuttlers around, was there some  
4 way you could contact some and get  
5 the cars moved?

6 A At times, and at times no.

7 Q And if you didn't --

8 A We just didn't move them.

9 Q Did you ever use employees to do this,  
10 regular service agents or something  
11 like that to move the cars?

12 A On the clock or off the clock?

13 Q On the clock?

14 A Well, at times if there was a slow period  
15 downtown, we would occasionally use,  
16 you know, if a car is damaged or we  
17 need one at the airport or we need a  
18 certain car from the airport, one  
19 car, we would send a service agent  
20 out on a non-revenue ticket.

21 Q Did you ever use a service agent or anyone  
22 like that, a mechanic to move a car  
23 off the clock?

24 A Service agent, it could be occasionally,  
25 yes, we could have. Off the clock?

1 Q es.

2 A Yes.

3 Q Was he paid then as a shuttler or as --

4 A He is paid as a shuttler.

5 Q At a particular time you had some cars  
6 to move and you had both employees  
7 and shuttlers available to do it, did  
8 you use the employees or the  
9 shuttlers?

10 A We used the shuttlers, you know, because  
11 the employees don't work on the  
12 clock, they was working. We needed  
13 cars, we had the shuttlers there,  
14 we get them on out there and got rid  
15 of them.

16 Q When a shuttler moved a car, did he have a  
17 document or anything else with him  
18 when he took a car?

19 A We have a vehicle transfer form we fill  
20 out.

21 Q Would you look at Defendant's Exhibit A.

22 A This is something similar. This is some-  
23 thing we could have used back years  
24 ago. I don't recall, you know, when  
25 it was outdated, but we have a dif-

ferent type form now we use.

Q Do you recall if that form, that Exhibit A there has essentially the same information as the information in use?

A I believe the same language is on this form that is on our other form.

Q Was one of these used every time a car was moved by a shuttler?

A It has to be.

Q What is the purpose of that?

A The purpose of that is to keep up with your mileage and whatever you engage him for to deliver the car to the airport.

Q Did a shuttler ever refuse to sign one of those?

A No.

Q Do you know of any occasion when a car was moved by a shuttler without any vehicle transfer contract?

A No, sir, to my knowledge, no.

Q Do you know of any occasion when a shuttler moved a car on a non-revenue ticket?

A No, they don't be put on non-revenue tickets, vehicle transfer form.



1 Q When a person came in as a shuttler, was  
2 he asked for his Social Security  
3 number?

4 A He is asked for his driver's license.

5 Q Not his Social Security number?

6 A No.

7 Q Was he asked about his driver's record?

8 A Well, we asked him but that is word of  
9 mouth, "Have you ever had a ticket  
10 or have you been in an accident," or  
11 something like that, but as long as  
12 he has a valid driver's license on  
13 his person.

14 Q Was there any form that he had to fill out  
15 containing his driving record?

16 A Not to my knowledge.

17 Q When a person came in looking for a job  
18 as a regular employee, such as service  
19 agent or someone like that, was there  
20 an application form that he was re-  
21 quired to fill out?

22 A Well, anyone, you mean to go to work for  
23 Avis?

24 Q Yes, as a service agent or mechanic?

25 A Yes, oh, yes, we have an application form

1           we fill out. If we don't have any  
2           • jobs open, we keep it on file, and if  
3           we have any open later, we call him.

4           MR. STILLMAN:

5           He didn't ask you anything about that,  
6           Charlie.

7           BY MR. HIPPLE:

8           Q     If someone was coming in looking for a  
9                 full-time job, was his driver's  
10                license checked or his driving  
11                record checked?

12          A     All driver's licenses are checked, looking  
13                 for a job, if he filled out an appli-  
14                 cation.

15          Q     How about his driving record, accidents,  
16                 and so forth?

17          A     We could check it through the, we check  
18                 it through, sometimes through the  
19                 Police Department if we are able to  
20                 get that information.

21          Q     But not all the time?

22          A     Not all the time you can't get that in-  
23                 formation.

24          Q     Was a shuttler's driver's license checked  
25                 every time he shuttled a car, or just

1 the first time if he was a regular?

2 A Well, we tried to get it as often as we  
3 can to see if he has still got it on  
4 his person.

5 Q Were the shuttlers asked for references,  
6 personal references?

7 A I don't know, to my knowledge, I don't  
8 know.

9 Q Was there any kind of interview with a  
10 person before he could shuttle?

11 A No.

12 Q Was there any interview of any kind before  
13 an individual was hired full time  
14 employment, such as a service agent  
15 or mechanic?

16 A Oh, yes, we talked to them, sat down and  
17 talked to them, yes.

18 Q Would you describe to the best of your  
19 recollection the general steps that  
20 took place when a person shuttled a  
21 car for Avis from the time he was  
22 first contacted to the time he de-  
23 livered the car to destination,  
24 check-in procedures, the documents,  
25 whatnot.



1 A When he comes up to the counter he has  
2 to present his driver's license at  
3 the counter so we can, you know, write  
4 up his name, his full name and address  
5 on it, and then he is given the car  
6 and he delivers it to the airport.

7 Q What does he do at the airport?

8 A He returns from the airport.

9 Q What does he do at the airport; who does  
10 he see; where does he go?

11 A He just brings that car up to the counter,  
12 I mean the paperwork, leaves the car  
13 on the outside and it is given to one  
14 of the service agents at the airport.

15 Q Do you recall how many copies of the ve-  
16 hicle transfer contract there were  
17 at that time?

18 A As I recall, four.

19 Q Do you know where they all went?

20 A Well, we kept one of them that goes with  
21 petty cash and we kept one on file,  
22 and I don't recall what we do with it.

23 Q How were the shuttlers paid for moving the  
24 cars, cash payment, check?

25 A Cash payment.

1 Q And was this a daily basis or weekly or  
2 after every time you moved a car?

3 A Every time we moved a car when we had a  
4 chance to use them.

5 Q How was the amount of the compensation  
6 fixed?

7 A How much, the amount of it?

8 Q Yes.

9 A Well, it was a certain shuttler fee be-  
10 tween here and the airport.

11 Q Fixed flat amount?

12 A Yes.

13 Q Do you know of any occasion when it was  
14 done on a mileage basis?

15 A No, sir.

16 Q Were there any expenses involved in moving  
17 the cars, tolls or gas or oil, any-  
18 thing like that?

19 A The only time that it would be gas involved  
20 is he picks up a car downtown and it  
21 would be empty of gas and he didn't  
22 check it or we didn't check it, and  
23 he would have to stop and get gas, or  
24 a minimum of gas.

25 Q Who would pay for that gas?

1 A We would have to reimburse him. But we  
2 tried to see that it had gas in it.

3 Q During this same period of time, '62 to  
4 '66, was there ever an occasion when  
5 a shuttler was involved in an over-  
6 night trip getting a car?

7 A I can't recall; I don't recall.

8 Q Was the shuttler allowed to use the car  
9 for personal purposes on the way?

10 A No.

11 Q Was he told that he could not?

12 A Well, we told him we wanted him to take it  
13 direct to the airport.

14 Q Did you tell him specifically that he  
15 couldn't use it for anything else?

16 A We didn't want him to go by his house,  
17 visit his friends or anything, we  
18 wanted him to deliver it to the air-  
19 port.

20 Q Did you tell him that specifically, "If  
21 you can't go to the airport straight,  
22 don't do anything else"?

23 A I don't know that, I have some people, you  
24 know, that do that. And I probably  
25 have told them if I sent them to the

1           airport that I wanted them to deliver  
2           to the airport.

3   Q       Was the mileage checked on the car at each  
4           end?

5   A       We know the distance between the airport,  
6           yes.

7   Q       And was it entered on a form, the mileage  
8           on either end?

9   A       The mileage in and mileage out.

10   Q       Who enters that on the form?

11   A       When he reports it in.

12   Q       The shuttler?

13   A       We check it, sometimes a shuttler will  
14           bring the mileage in and then if  
15           there is a discrepancy, we know just  
16           about how many miles between the air-  
17           port and downtown.

18   Q       Could the shuttler pick up a passenger  
19           along the way, take a friend to the  
20           airport with him?

21   A       He could; without our knowledge we don't  
22           want him to.

23   Q       Again, was he asked or told not to do  
24           that?

25   A       Yes, at times we would tell them not to

1 pick up anyone.

2 Q Can you think of any other instructions  
3 or advice or information that was  
4 given to a shuttler at any time we  
5 haven't covered, anything else he -  
6 was told?

7 A No.

8 Q Was he told anything about what would  
9 happen if he got a speeding ticket  
10 on the way?

11 A He was responsible for it.

12 Q Was he told he was?

13 A We tried to tell them that they are re-  
14 sponsible for any tickets.

15 Q Was a shuttler given any instructions or  
16 information on what to do if the  
17 car broke down or if he had an  
18 accident on the way?

19 A Call us.

20 Q Was he told this, the procedure to follow?

21 A Call us.

22 Q Was he given a specific number to call?

23 A Just call the downtown Avis if something  
24 happens to the car.

25 Q Were the shuttlers covered by automobile

1 liability insurance maintained by  
2 . Avis while they were driving?

3 A Well, according to the law, the owner is  
4 responsible for the car liability  
5 wise.

6 Q The car itself?

7 A Yes, sir.

8 Q The cars themselves were insured for  
9 damage?

10 A Yes.

11 Q How about the shuttler himself driving for  
12 personal injury?

13 A We are self-insured. To my knowledge, I  
14 don't recall any accidents.

15 Q Was the automobile insurance coverage  
16 explained to the shuttlers?

17 A It is self-explanatory on it if you read  
18 that language there.

19 Q Do you recall any shuttler asking about  
20 insurance?

21 A No.

22 Q Was Social Security, unemployment taxes  
23 or withholding taxes deducted from  
24 the amount paid to the shuttlers?

25 A No.



1 Q Was there anything said to the shuttlers  
2 about payroll deductions?

3 A No.

4 Q Do you recall anyone, any shuttler who  
5 asked any questions about it?

6 A Oh, no.

7 Q Do you recall any of the individuals who  
8 shuttled cars during that period?

9 A No.

10 Q Do you know of any individuals who  
11 shuttled cars during that period who  
12 were full-time regular employees of  
13 Avis, such as mechanics or the service  
14 agents or someone?

15 A Oh, no.

16 Q Doing this off the clock?

17 A No. Wait a minute, now, you said off the  
18 clock?

19 Q Off the clock?

20 A It could have been, yes.

21 Q And if they were doing it off the clock,  
22 were they paid the same way as any  
23 other shuttler was?

24 A Yes.

25 Q They were paid a dollar or whatever it

1 was each trip?

2 A That is right.

3 Q This was not added onto their paycheck each  
4 week?

5 A No.

6 Q Was the shuttler given anything else when  
7 he picked up a car besides the keys  
8 and the vehicle transfer contract?

9 A No.

10 Q Were the shuttlers covered by health in-  
11 surance or any other fringe benefits  
12 from Avis?

13 A From Avis?

14 Q Yes.

15 A Uh, no.

16 Q Do you know of any shuttler who ever filed  
17 a claim for any of these fringe  
18 benefits?

19 A Not to my knowledge, no.

20 Q Was any person who shuttled frequently  
21 given preference as a regular shuttler?

22 A No, not necessarily, no.

23 Q Was it first come first served?

24 A First come first served.

25 Q Do you know of any shuttler who was asked



1 or required to share any part of his  
2 fee or compensation with anybody else?

3 A No.

4 Q During this period of time was there a  
5 foreman or a head shuttler or someone  
6 like that who controlled the  
7 shuttling?

8 A No. At times you have one and then he  
9 disappears, you don't see him any  
10 more.

11 Q Who at Avis would handle the operation of  
12 moving cars?

13 A Mostly it is assigned to the station mana-  
14 gers.

15 Q Did Avis make arrangements to get the  
16 shuttlers back from the airport or  
17 wherever their destination was when  
18 they moved a car?

19 A We have to get them back, yes.

20 Q How was that normally done?

21 A Whoever took cars out, bring one back.

22 Usually if they need certain equip-  
23 ment, they bring it back.

24 Q Was the one who drove the car out and back  
25 paid anything extra?

- 1 A No.
- 2 Q Was he paid at all?
- 3 A He was paid the regular shuttler's fee.
- 4 Q Did the shuttlers have any kind of
- 5 identification badge or card or
- 6 anything like that to identify them
- 7 as an Avis shuttler?
- 8 A No.
- 9 Q Did they have anything at all to identify
- 10 them if they were stopped by the
- 11 police with the car and asked who
- 12 they were and why they had the car?
- 13 A No, not as long as they had that vehicle
- 14 transfer form.
- 15 Q Nothing else?
- 16 A No.
- 17 Q How about the regular full-time employees
- 18 that were driving a car, did they
- 19 have any kind of identification?
- 20 A We all got, all Avis employees got I.D.
- 21 cards.
- 22 Q Did they have them at that time, '62 to
- 23 '66?
- 24 A Oh, I don't know, I can't recall. I can't
- 25 recall if we had I.D. cards back in

1 '66 or not.

2 Q Did the shuttlers wear any kind of jacket  
3 or uniform when they were driving?

4 A Regular street clothes.

5 Q Did the regular full-time employees of  
6 Avis, mechanics, service agents have  
7 a uniform?

8 A We have a uniform for our service agent,  
9 mechanics.

10 Q Were they required to wear that uniform?

11 A They were required to wear it to work, yes,  
12 sir.

13 Q So if they were driving a car, they could  
14 have that uniform on?

15 A Not necessarily. They could come in in  
16 street clothes.

17 Q I mean if they are working a regular  
18 eight hours?

19 A Oh, yes.

20 Q And they were driving a car?

21 A Yes, they drive in their uniform.

22 Q Do you know of any other records maintained  
23 by Avis to show the dates and amounts,  
24 purpose of the payments to the  
shuttlers besides the vehicle trans

1 for contract?

2 A No.

3 Q When a shuttler was paid when he turned  
4 in his vehicle transfer contract,  
5 did he have to sign anything else?

6 A He signed the petty cash slip stating that  
7 he was paid a certain amount.

8 Q Will you describe that petty cash slip.

9 A It is a form that we use, it is an Avis  
10 form, petty cash slip, got certain  
11 language on there.

12 Q It is a pre-printed form?

13 A Yes.

14 Q Was it a form specifically for shuttling  
15 on just a standard petty cash form?

16 A A regular standard petty cash form.

17 Q Was there any identification number or  
18 symbol on the form itself?

19 A It could be a form number at the bottom,  
20 yes. All of the forms are numbered.

21 Q Was there anything on the form or added to  
22 the form by anybody at Avis to identi-  
23 fy it as part of the shuttling opera-  
24 tion?

25 A Wait a minute, say that again.

1 Q Was there some way to tell that the pay-  
2 ment, this particular payment that  
3 we are talking about was for the  
4 shuttling rather than for something  
5 else?

6 A Transfer unit so and so from the airport  
7 downtown.

8 Q You wrote this right on there?

9 A Supposed to be written on there, or it is  
10 on this form here, which is attached  
11 to the petty cash.

12 Q Did the shuttler himself sign the petty  
13 cash form?

14 A Yes.

15 Q Did anybody at Avis sign it, also?

16 A We used a number paid out by, an employee  
17 number.

18 Q Do you recall what your number is?

19 A Mine?

20 Q Yes.

21 A 1622.

22 Q Has it been that number all the way  
23 through?

24 A Been that number since 1962.

25 Q Do you know of any individual who would

1 shuttle cars for Avis in the past  
2 who is not allowed to do it again  
3 for any reason?

4 A Not unless he was picked up for speeding  
5 or something like that, we just try  
6 to discharge him.

7 Q Was the need for shuttlers a regular  
8 everyday thing or was it only cer-  
9 tain days a week you always needed  
10 shuttlers?

11 A It varied on certain days. It was not a  
12 continuous seven.

13 MR. HIPPLE:

14 That is all I have got.

15 MR. STILMAN:

16 I have no questions.

17

18

19

...oOo...

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[Reporter's Certificate omitted in duplicating]

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1 UNITED STATES DISTRICT COURT  
2 EASTERN DISTRICT OF NEW YORK  
3

4 AVIS RENT-A-CAR SYSTEM, Inc., )  
5 Plaintiff, )  
6 vs. )  
7 UNITED STATES OF AMERICA, )  
8 Defendant. )  
9

No. 70-C-70

[Filed April 9, 1973]

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15 DEPOSITION OF

16 GEORGE F. ZEPP

17 February 27, 1973  
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I N D E X

Deposition of George F. Zepp

Page

Examination by Mr. Hipple

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PAUL SCHILLER

OFFICIAL REPORTER, U. S. DISTRICT COURT  
SAN FRANCISCO, CALIFORNIA

1 BE IT REMEMBERED that, pursuant to Notice and  
2 Subpoena, and on Tuesday, February 27, 1973, commencing at the  
3 hour of 11:55 a.m. thereof, at the offices of James L. Browning,  
4 Jr., United States Attorney, 450 Golden Gate Avenue, San  
5 Francisco, California, before me, PAUL SCHILLER, a Notary  
6 Public in and for the City and County of San Francisco, State  
7 of California, personally appeared

8 GEORGE F. ZEPP,

9 called as a witness by the defendant, who, having been by me  
10 first duly sworn, was thereupon examined and testified as  
11 hereinafter set forth.

12 --oOo--

13 STUART B. STILLMAN, Esquire, 900 Old Country Road,  
14 Garden City, New York 11530, appeared as counsel on behalf  
15 of the plaintiff; and

16 ROBERT J. HIPPLE, Esquire, Trial Attorney, Tax  
17 Division, Department of Justice, Washington, D. C. 20530,  
18 appeared as counsel on behalf of the defendant.

19 --oOo--

20 MR. STILLMAN: For the record, before we start the  
21 deposition, I object to questions asked that may be asked --  
22 and I have a continuing objection, just so I don't have to  
23 keep objecting -- with respect to questions that will involve  
24 facts exclusive of the years 1962 to 1966.

25 MR. HIPPLE: Fine.

1           It was stipulated that the said deposition shall  
2 be reported by PAUL SCHILLER, a certified shorthand reporter  
3 and disinterested person, and thereafter transcribed into  
4 typewriting, to be read to or by the said witness, who, after  
5 making such corrections therein as are necessary, will  
6 subscribe the same.

7           It was further stipulated that in the event the  
8 said deposition is not signed by the witness, reasonable  
9 opportunity having been had to do so, it may be used with the  
10 same force and effect as though it had been signed.

11           It was further stipulated that all objections not  
12 made herein to questions propounded to the said witness shall  
13 be reserved by each of the parties until the time of trial,  
14 save and except any objections as to the form of the questions  
15 propounded.

16           It was further stipulated that in the event the  
17 witness should refuse to answer any questions propounded by  
18 counsel, it shall be deemed that the notary public has  
19 instructed the witness to answer and that he still refuses  
20 to do so.

21                           --oOo--

22                           GEORGE F. ZEPP,  
23 having been first duly sworn, testified as follows:

24                           EXAMINATION BY MR. HIPPLE

25                           MR. HIPPLE: Q. Would you state your full name

1 and current address, please?

2 A. George Franklin Zepp, Jr., 820 Darien Way,  
3 San Francisco.

4 Q. And your current occupation?

5 A. District Manager, Avis Rent-A-Car.

6 Q. How long have you been associated with Avis?

7 A. Since October, 1964.

8 Q. Have you been in San Francisco the whole time?

9 A. No, I was transferred, for two years I was  
10 in Denver, in '67 and '68.

11 Q. What position did you hold with Avis during  
12 the period from '62 to '66, the years we are talking about in  
13 this suit?

14 A. Well, I was hired by Avis in October, 1964.  
15 That takes care of that period, and from '64 to '66 I was in  
16 the capacity of rental agent at 675 Post Street, and San  
17 Francisco Airport on the graveyard shift, and then I was  
18 switched to Accounts Payable and the Insurance Department,  
19 in our Zone Office, which was located at 675 Post Street.

20 Q. In any one of those positions, did you  
21 become familiar with the car shuttling operation, they are  
22 called shaggers out here, of Avis?

23 A. I was aware that we had shuttlers.

24 Q. Did you deal with them yourself?

25 A. No, I did not.

1 Q. Did you see them in operation in your work  
2 as a rental agent at the airport or downtown, bringing cars  
3 in or taking cars out?

4 A. Once or twice I did see them come in.

5 Q. Are you familiar with the terms of the  
6 arrangements under which they shuttle cars for Avis?

7 A. At that time, was I familiar?

8 Q. Right.

9 A. Well, when you say "terms," do you mean the  
10 basis of payment or something like this?

11 Q. Start off first, do you know how Avis  
12 contacted these people to come in and drive a car?

13 MR. STILLMAN: Just answer the question, if you  
14 know. If you don't know, you just say you don't know.

15 MR. HIPPLE: Q. Would you describe how Avis  
16 contacted these people from 1964 on?

17 A. Well, they had like what was called a lead  
18 shuttler, and he contacted this person, if they needed somebody  
19 to move cars. And he, in turn, contacted other people.

20 Q. Did you ever contact that individual yourself?

21 A. No.

22 Q. You never did contact him?

23 A. No. Well, actually it was done by our car  
24 control, which was out of the zone office, which would have  
25 been at 675 Post Street.



1 Q. Did you ever deal with the car control people,  
2 getting a car out to the airport?

3 A. If I needed one.

4 Q. You were short cars at the airport, what  
5 was your function to call in and say, "We need more cars,"  
6 or was that somebody's function downtown who handled that?

7 A. No, at that time it was not my function.

8 Q. This lead shuttler or head shuttler, was he  
9 the same individual to your knowledge during this period of  
10 time, beginning with '64 to '66?

11 A. I quite frankly don't know.

12 Q. Are you familiar with the terms of any union  
13 contracts with shuttlers, if there were any?

14 A. At that time?

15 Q. At that time, yes.

16 A. No.

17 Q. You keep saying "at that time." You had  
18 subsequently become familiar with the operation, with the  
19 shuttling operation in your present capacities?

20 A. Yes.

21 Q. Would the information you have now relate to  
22 the period of '64 to '66?

23 MR. STILLMAN: That is not a fair question,  
24 probably.

25 MR. HIPPLE: What I'm trying to establish is what

1 you know about the operation now if it would relate to the  
2 way it was operated in '64 to '66.

3 Was it the same kind of operation?

4 A. I would say it basically probably was, yes.

5 Q. Okay. Do you know now if there is a union  
6 contract with shuttlers?

7 A. Yes.

8 Q. And do you know whether or not there was one  
9 at the time?

10 A. That I do not know.

11 Q. Do you know the general terms of the union  
12 contract, do you know how long there has been a union contract,  
13 first, of your own knowledge?

14 A. Are you speaking of shuttlers?

15 Q. Shuttlers, yes.

16 A. I don't know when that was incorporated as  
17 part of it.

18 Q. How long have you been aware that there was  
19 a union contract?

20 A. I would say four years, five years.

21 Q. Are you familiar with the general terms of  
22 the union contract?

23 A. Yes.

24 Q. Would you describe what the terms are, just  
25 generally.

1 A. Are you speaking of the shuttlers now?

2 Q. Yes.

3 A. It is always shuttlers?

4 Q. Yes.

5 A. With respect to the union contract, when  
6 the shuttlers are needed, the union is contacted, whatever  
7 local it is. If we need, say, five shuttlers on one specific  
8 day, they are called in. They are asked to send down five  
9 people from the hall and they are paid on a regular hourly  
10 basis for whatever hours they put in.

11 I don't know if there is a minimum, sometimes  
12 they have to report. I don't know if it refers to a minimum  
13 or not, whether there is a guarantee of four hours or anything  
14 like that for reporting, but I know they are paid strictly  
15 on an hourly basis and they are called daily, or whenever they  
16 are needed.

17 Q. Do you know how their compensation is arranged?  
18 Are they paid per job or weekly, every two weeks?

19 A. They are paid -- are you speaking then or now?

20 Q. Now, under the union contract, as far back  
21 as you are familiar with the union proceeding.

22 A. Payroll checks.

23 Q. You mentioned before the head shuttler or  
24 lead shuttler. Did he work full time in that position, do  
25 you know, 40 hours a week?

PAUL SCHILLER

OFFICIAL REPORTER DISTRICT COURT  
S. CALIFORNIA

1

A. No.

2

Q. Do you know how the shuttlers are paid, how they were paid in '64 to '66?

3

A. As petty cash.

4

Q. Did you ever take part in paying them yourself out of petty cash out at the airport or downtown, whichever?

5

A. Downtown I did, yes.

6

Q. Would you describe the procedure when one of them came in?

7

8

A. Basically they submitted, they had a record of the time that they worked so many hours. It was a timecard, we gave them to keep a record of it, and, say, if it was five or six hours or something, that was brought over to Accounts Payable Department, which was part of payroll, we would draw up a petty cash check there.

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Q. It was by check, not cash payment?

A. I said petty cash, but it was by cash actually.

Q. It came out of the petty cash account?

A. Yes.

Q. Were they paid on an hourly basis?

A. Yes.

Q. Do you know of any who were paid on a mileage basis, the shuttler?

A. On flat, no, like they would be, say, from here to Sacramento, it would be just a flat rate, which was

1 agreed upon sometime just independently by them. That was  
2 not always --

3 Q. Did they have any kind of a transfer contract  
4 or ticket or something, document when they picked up a car  
5 where you were and brought a car back to where you were?

6 A. Yes, vehicle transfer contract is what they  
7 used.

8 Q. I will show you what has previously been  
9 marked as Defendant's Exhibit A and ask you to look at that  
10 if you can identify that; is that the vehicle transfer contract  
11 that was in use at the time?

12 A. At that time, yes.

13 Q. Did everyone of the shuttlers who came with  
14 a car have one of these contracts?

15 A. Yes.

16 Q. Did any of them use non-revenue tickets  
17 instead?

18 A. If we had on occasion run out of these sometime  
19 maybe we did.

20 Q. Was there any other reason why you would use  
21 a non-revenue ticket rather than that one?

22 A. No.

23 Q. Are you familiar with whether or not these  
24 individuals, the car shuttlers, were asked for any personal  
25 information when they first started shuttling?

1           A.   Well, valid driver's license, and I think  
2 social security number. We asked for that.

3           Q.   This was when you were downtown or out at  
4 the airport, or both?

5           A.   It was downtown.

6           Q.   How about their driving record, if you can  
7 recall?

8           A.   No, not that I can recall.

9           Q.   How about home address or phone number,  
10 something like that?

11          A.   I don't think that was -- let's say I did not.  
12 I don't know, I did not contact the people so I don't know what  
13 they asked them.

14          Q.   Just what you know.

15          A.   Okay.

16          Q.   Did you ever have occasion to explain to the  
17 shuttlers exactly what was involved in the job, what they had  
18 to do?

19          A.   No.

20          Q.   Did you ever have occasion to explain to  
21 them what the purpose of the shuttle contract was, the vehicle  
22 transfer contract?

23          A.   No.

24          Q.   Do you know of any shuttlers who would refuse  
25 to sign those contracts?



1 A. No.

2 Q. Did you ever have a shuttler come into  
3 downtown when you worked there as a rental agent to pick up  
4 a car to be shuttled somewhere else?

5 A. Yes.

6 Q. Or at the airport, either one?

7 A. Yes.

8 Q. Would you describe what procedures there were,  
9 if any, when he picked up a car, what was done?

10 A. Well, these were completed, whatever cars had  
11 to be moved from whatever location to whatever location.

12 Q. Do you know who completed that form?

13 A. Most of the time it was the station manager,  
14 whoever was there at that time. And they would sign it, that  
15 is it.

16 Q. You told them where to take the car and that  
17 was it?

18 A. Yes.

19 Q. Do you recall if they got anything besides  
20 that contract and the keys to the car and the registration to  
21 the car?

22 A. No, that would be it.

23 Q. And the check-in procedure, when they arrived  
24 with a car, what did they have to do then, if you know?

25 A. Well, return the keys and usually they put the

1 mileage in right there, and the time that it was returned,  
2 date in, plus the time, and that was it.

3 Q. And then you would process it for payment?  
4 I am not sure if we hit this specifically, but were they paid  
5 everytime they came in for a car or did they add it up for a  
6 week or some other period?

7 A. It was usually on a weekly basis, not always,  
8 it all depended upon the demand for cars. If we had certain  
9 cars to go from here to Sacramento, that was maybe a one-time  
10 shot, once every two or three weeks, something like that,  
11 so we knew those people were not going to be back again,  
12 so they were paid at the end of that one-way particular trip  
13 or round trip, whatever it was.

14 But some of the others that we would maybe use  
15 two or three times a week, they were paid on a weekly basis.

16 Q. The locals back and forth to the airport?

17 A. Right.

18 Q. Do you know whether or not the shuttlers or  
19 shaggers, when they were driving these cars, were covered by  
20 auto insurance maintained by Avis?

21 A. I had assumed they were.

22 Q. You don't know specifically?

23 A. No, I don't.

24 Q. Do you recall a situation in which one of  
25 the shuttlers asked you or asked anybody else in your presence

1 about auto insurance coverage?

2 A. No.

3 Q. Do you know if the shuttlers were given a  
4 specific route to follow in moving the cars?

5 A. Well, not exactly. However, if there was  
6 four or five of them, they would leave together and it was  
7 expected they would stay together and get there at the same  
8 time.

9 Q. Did Avis make any arrangements or provisions  
10 for them to get back to the airport or downtown, after they  
11 had moved the cars?

12 A. Yes. The late shuttler would be there and  
13 he would have the transportation back, he would round trip,  
14 maybe a stationwagon to bring them all back in.

15 Q. Do you know if he was paid any additional  
16 amount for being lead shuttler?

17 A. Yes.

18 Q. Do you know how that was worked out? Was he  
19 paid more per hour?

20 A. No, I think it was just -- I don't know the  
21 hourly thing at all -- but for the flat rates it was just he  
22 got an additional \$3.00 or something like that for getting  
23 them all together.

24 Q. The flat rate did not apply from downtown to  
25 the airport or any local move?

1 A. No.

2 Q. Were they given any specific time in which  
3 to arrive at their destination?

4 A. Well, say that we had cars in Sacramento  
5 and we needed them at San Francisco Airport to cover  
6 reservations. We would call up there in the morning and we  
7 would say, "Would you mind getting them down there at 4:00  
8 o'clock, that is when our reservations are for," on that  
9 premise.

10 Q. Were the shuttlers ever told they could or  
11 could not use the car for any personal reasons, driving  
12 somebody to Sacramento in taking the car there, for example?

13 A. I will have to say no. For this reason:  
14 I don't know if anybody ever asked, that is what I'm trying  
15 to say.

16 Q. Do you know who checked the mileage on the  
17 car at the end of the trip?

18 A. Usually the station manager when they left,  
19 and also the one where they checked it in at the other station.

20 Q. Do you know whether the shuttler checked it  
21 himself?

22 A. Yes.

23 Q. In addition to the manager or somebody else,  
24 doing it for him?

25 A. Well, they could have been somebody else.

1 Maybe one of the service agents happened to be there and  
2 when the shuttler got out, they would record the mileage on  
3 this and the service agent would just take the car and get  
4 it ready for rental, then.

5 Q. Did you yourself or did you hear anyone  
6 else give the shuttlers any kind of instructions or information  
7 other than the destination of the car?

8 A. No.

9 Q. Did you yourself hear somebody explain to a  
10 shuttler what would happen if he got a speeding ticket or any  
11 other kind of traffic ticket?

12 A. No.

13 Q. How about instructions on what to do if the  
14 car broke down or if there was an accident?

15 A. Oh, yes, to call. Usually they would call  
16 the station where they left from. It would all depend what  
17 was the nearest Avis location.

18 Q. Were they told this?

19 A. Somebody would come after them.

20 Q. And this is what they were told?

21 A. Yes, if there was a breakdown.

22 Q. And the same with an accident, there was  
23 a procedure to follow?

24 A. Right.

25 Q. You mentioned discussing different jobs you

1 had with Avis, you worked in the insurance department?

2 A. Yes.

3 Q. What was the job there, what were you doing  
4 there, just briefly?

5 A. Processing all the accident claims that we had.

6 Q. We covered this briefly, the insurance  
7 coverage for the shuttlers, you said you were not sure, you did  
8 not know whether they were covered or not?

9 A. There again it was an assumption. I assumed  
10 they were, because I did not handle any claims involving any  
11 of the shuttlers.

12 Q. That was my next question, you don't recall  
13 any claims at all involving shuttlers?

14 A. No, I don't.

15 Q. Do you know whether or not social security,  
16 unemployment taxes or withholding taxes were taken out of the  
17 amounts paid to the shuttlers?

18 A. Yes.

19 Q. Yes, you know?

20 A. Yes, they were.

21 Q. Is that true of both the ones who were paid  
22 an hourly rate and the ones paid on a flat rate going to  
23 Sacramento?

24 A. I honestly don't know about the flat rates.

25 Q. But they were out of the hourly rates?



1 A. Yes, that I know.

2 Q. Do you recall Avis ever advertising in a  
3 newspaper or anywhere else for shuttlers?

4 A. No.

5 Q. Were the shuttlers covered by health insurance  
6 or any other kind of fringe benefits maintained by Avis?

7 A. No.

8 Q. Was this ever explained to them, as far as  
9 you know?

10 A. I don't know.

11 Q. Do you know of any shuttler who ever filed  
12 a claim for any kind of fringe benefit or workmen's compensation  
13 or anything like that?

14 A. No.

15 Q. As far as you know, was anyone who shuttled  
16 for Avis frequently given preference as a regular over a  
17 newcomer? If you had four people there and only three cars,  
18 would the regular get the job rather than somebody else?

19 A. No, we would know how many people we needed.  
20 We would not call in excess, so we didn't have to do that.

21 Q. Do you know of any situations where you needed  
22 a car shuttled and you just picked up somebody that was at the  
23 airport or downtown without calling up a head shuttler?

24 A. Yes.

25 Q. How often would that happen?

1 A. Very rarely, but it has happened.

2 Q. How was he paid in that situation, do you  
3 know?

4 A. It would have been petty cash.

5 Q. On an hourly basis?

6 A. The trip, so much a trip, flat rate.

7 Q. That is also from downtown?

8 A. It was not from downtown to the airport as  
9 much as I am talking about basically the Sacramento area or  
10 something like that.

11 Q. Do you know if the individuals had any kind  
12 of identification cards, something to show they were Avis  
13 shuttlers?

14 A. This would have been the only thing  
15 (indicating).

16 Q. That is Exhibit A, the contract?

17 A. Yes.

18 Q. Did any of them wear an Avis jacket or anything  
19 like that?

20 A. No.

21 Q. Are you familiar with the petty cash slips  
22 that the shuttlers had to sign when they were paid or delivered  
23 the car; did you ever see any of those?

24 A. Basically what happened is each shuttler, say  
25 there was five and a head shuttler, they would turn in a copy,

1 each one would turn a copy of this in.

2 Q. The contract?

3 A. Yes, and the lead shuttler would sign the  
4 petty cash slip and he, in turn, would disburse the funds to  
5 the others.

6 Q. Was there any kind of number or identification  
7 symbol on the petty cash slip, an accounting number or something  
8 like that?

9 A. Yes.

10 Q. Do you recall what it was, what kind of a  
11 symbol or number?

12 A. Yes, 423.

13 Q. Was that the account number for shuttling?

14 A. Yes.

15 Q. Do you recall any four-digit numbers on the  
16 petty cash slip?

17 A. Yes.

18 Q. What would that have been? First of all, do  
19 you recall if a four-digit number was printed on the form or  
20 written in?

21 A. It was something we had to type in on the  
22 check.

23 Q. Was it the same number every time?

24 A. Wait a minute, I'm trying to think here.

25 What we do now and what we did then -- I can't recall. They

1 changed the account numbers and I don't know. I know what  
2 we use now, but I can't recall what we did then. I thought  
3 it was 14 -- I don't know.

4 Q. Let me show you here a list of names, dollar  
5 amounts, dates and employee numbers. These are petty cash  
6 slips from the Avis warehouse in Garden City. The second  
7 column is the numbers we are talking about.

8 A. You are talking about employee numbers?

9 Q. Do you recognize any of these numbers and  
10 what they mean? I don't know whether the employee number is  
11 the right designation, what the four-digit number refers to,  
12 whether it is an account for Avis bookkeeping purposes,  
13 individual numbers, or what it might have been. Only if you  
14 can recall or have any idea what that might be.

15 A. Well, I recognize people's names on here.

16 Q. I'm interested more in the numbers, the four-  
17 digit numbers, what it was, what it referred to, why it was  
18 put on there.

19 (Discussion off the record.)

20 THE WITNESS: Okay, I don't know.

21 MR. HIPPLE: Q. To your knowledge, was any  
22 individual who shuttled for Avis in the past not allowed to  
23 do so again for some reason?

24 A. No.

25 Q. You don't know?

1 A. I don't know.

2 Q. Okay. I can't let this one hang, you mentioned  
3 that you knew some of the names on the list. You recognized  
4 some of the names. Any of the names that you recognize on  
5 that list, are they still around today?

6 A. Yes.

7 Q. Shuttlers or in some other capacity?

8 A. Yes.

9 Q. Which ones, you go through a few of them.

10 A. Well, the one on the bottom, Ed Roscoe.

11 Q. Do you know where he is now?

12 A. Yes, he is a mechanic at zone in Burlingame.

13 Q. For Avis?

14 A. Yes.

15 Q. Do you know how long he has been with Avis?

16 A. No, I have no idea. All the rest of the  
17 names on here -- some are deceased.

18 Q. You can recognize some of these names who  
19 were shuttlers?

20 A. No, none of these people were shuttlers,  
21 including Ed Roscoe.

22 Q. Do you know who they were, regular full-time  
23 employees of Avis?

24 A. Yes, they were service agents at that time  
25 and Roscoe was a service agent at that time.

1 Q. Would you have any idea why the names of  
2 those individuals, service agents or mechanics or whatever,  
3 would appear on the petty cash slips as shuttlers or having  
4 to do with shuttling?

5 A. No.

6 Q. Do you know whether any of the service agents  
7 did any shuttling either as part of their full-time duties  
8 or other than full-time eight-hour work?

9 A. No, I don't.

10 MR. HIPPLE: I have nothing further.

11 MR. STILLMAN: Okay, no questions.  
12  
13  
14

15 GEORGE F. ZEPP

16 \* \* \* \* \*  
17 [Reporter's Certificate omitted in duplicating]  
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25



1 UNITED STATES DISTRICT COURT  
2 EASTERN DISTRICT OF NEW YORK  
3

4 AVIS RENT-A-CAR SYSTEM, Inc., )

5 Plaintiff, )

6 vs. )

7 UNITED STATES OF AMERICA, )

8 Defendant. )  
9

No. 70-C-70

[Filed April 9, 1973]

10  
11  
12  
13  
14  
15 DEPOSITION OF

16 HERBERT V. ELLIOTT

17 February 27, 1973  
18  
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23  
24  
25

PAUL SCHILLER

OFFICIAL REPORTER, U. S. DISTRICT COURT  
SAN FRANCISCO, CALIFORNIA

I N D E X

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Deposition of Herbert V. Elliott	
Examination by Mr. Hipple	4

E X H I B I T SDefendant's  
Exhibit No.

B.	List of Names from St. Louis	22
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1 BE IT REMEMBERED that, pursuant to Notice and  
2 Subpoena, and on Tuesday, February 27, 1973, commencing at the  
3 hour of 11:10 a.m. thereof, at the offices of James L. Browning,  
4 Jr., United States Attorney, 450 Golden Gate Avenue, San  
5 Francisco, California, before me, PAUL SCHILLER, a Notary  
6 Public in and for the City and County of San Francisco, State  
7 of California, personally appeared

8 HERBERT V. ELLIOTT,  
9 called as a witness by the defendant, who, having been by me  
10 first duly sworn, was thereupon examined and testified as  
11 hereinafter set forth.

12 --oOo--

13 STUART B. STILLMAN, Esquire, 900 Old Country Road,  
14 Garden City, New York 11530, appeared as counsel on behalf  
15 of the plaintiff; and

16 ROBERT J. HIPPLE, Esquire, Trial Attorney, Tax  
17 Division, Department of Justice, Washington, D. C. 20530,  
18 appeared as counsel on behalf of the defendant.

19 --oOo--

20 MR. STILLMAN: For the record, before we start the  
21 deposition, I object to questions asked that may be asked --  
22 and I have a continuing objection, just so I don't have to  
23 keep objecting -- with respect to questions that will involve  
24 facts exclusive of the years 1962 to 1966.

25 MR. HIPPLE: Okay.

1           It was stipulated that the said deposition shall be  
2 reported by PAUL SCHILLER, a certified shorthand reporter and  
3 disinterested person, and thereafter transcribed into type-  
4 writing, to be read to or by the said witness, who, after  
5 making such corrections therein as are necessary, will subscribe  
6 the same.

7           It was further stipulated, however, that in the event  
8 the said deposition is not signed by the witness, reasonable  
9 opportunity having been had to do so, it may be used with the  
10 same force and effect as though it had been signed.

11           It was further stipulated that all objections not made  
12 therein to questions propounded to the said witness shall be  
13 reserved by each of the parties until the time of trial, save  
14 and except any objections as to the form of the questions  
15 propounded.

16           It was further stipulated that in the event the  
17 witness should refuse to answer any questions propounded by  
18 counsel, it shall be deemed that the notary public has  
19 instructed the witness to answer and that he still refuses  
20 to do so.

21           ---oOo---

22           HERBERT V. ELLIOTT,  
23 having been first duly sworn, testified as follows:

24           EXAMINATION BY MR. HIPPLE

25           MR. HIPPLE: Will you state your full name and

1 current address, please?

2 A. Herbert V. Elliott, 3332 Plaza Way, Salt  
3 Lake City, Utah.

4 Q. And your current occupation?

5 A. City Manager, Avis Rent-A-Car.

6 Q. In --

7 A. Salt Lake City, that is correct.

8 Q. How long have you been in that position?

9 A. Fourteen months.

10 Q. Were you employed by Avis prior to that?

11 A. Yes.

12 Q. How long have you been employed by Avis?

13 A. A total of seven years.

14 Q. Beginning in '66?

15 A. I have to correct that, '64, the summer of  
16 '64.

17 Q. Where did you start?

18 A. In St. Louis, Missouri.

19 Q. What was your position there?

20 A. Station manager.

21 Q. Downtown?

22 A. Downtown.

23 Q. Would you explain or describe the course of  
24 your different jobs with Avis up to the present?

25 A. I was the downtown station manager at St. Louis

1 for a period of a year. I was station manager at Lambert Field,  
2 also for a period of a year, in St. Louis. I transferred to  
3 the Pacific Region, working in the Regional Vice-President's  
4 Office for a period of a year, that was in San Francisco.

5 Q. And from there to Salt Lake City?

6 A. No, from there to Oakland, as District  
7 Manager, for a period of one year, and then from Oakland to  
8 San Francisco downtown, and from San Francisco downtown to  
9 Salt Lake City.

10 Q. Okay, now we got you. In any of those  
11 positions, did you become familiar at all with what we call  
12 the shuttling operation of Avis?

13 A. Yes, right.

14 Q. We will start with the earliest one in  
15 St. Louis. Are you familiar with the shuttling operation in  
16 St. Louis?

17 A. Not now.

18 Q. We are talking about the time, we are  
19 interested really about the period of '62 to '66, while you  
20 were there?

21 A. Right, we did use what we would term  
22 shuttlers at that time.

23 Q. Do you know how you or Avis contacted the  
24 shuttlers?

25 A. Well, we had usually the name of one individual,



1 one or two that would secure the drivers, the rest of the  
2 drivers, and we would tell them how many cars we felt we had  
3 to have moved.

4 Q. You would have a list of names or telephone  
5 numbers of individuals to call?

6 A. Well, we would have maybe the name of one  
7 individual and how to get in touch with him either through  
8 a neighbor or if he had a phone himself.

9 Q. Was this individual, call him head shuttler,  
10 or whoever, the same individual for the period you were there?

11 A. No.

12 Q. Do you know how long any one individual  
13 lasted in that position?

14 A. Well, my memory is not too good, of course,  
15 but I would say being in each position for only a position of  
16 a year, that these individuals would maybe be on the scene  
17 on and off for maybe three months or so, and then they would  
18 kind of fade out.

19 Q. Do you recall how, when one faded out, you  
20 found out who to call the next time?

21 A. Well, you know, these people, there would  
22 be somebody that seemed to maintain some kind of continuity  
23 as far as relationship was concerned.

24 Q. Did this particular individual come in to you  
25 and say, "I got the names, do you want to give me a call if you

1 need them?" Or did the old head shuttler give you the new  
2 guy's name?

3 A. They never gave us the names. Really, we  
4 went to them. We said, "Okay," how many cars we needed to  
5 move, and we would go from there.

6 Q. I'm trying to find out as best you can recall  
7 how you knew to call that particular individual and not  
8 somebody else. He was the guy supplying people for you.

9 A. They moved on a pretty regular basis. There  
10 was a particular pattern, and this individual would be there  
11 Friday and there would be another person that would be a  
12 familiar face, and that familiar face would show up the following  
13 Friday, maybe even if the head shuttler did not, to see if we  
14 wanted to have cars moved.

15 Q. And you would get his phone number if he would  
16 give you his phone number to call him?

17 A. Not that I remember. Usually they showed up.

18 Q. Did you ever keep any kind of phone numbers  
19 for any of these people, either downtown or at the airport?

20 A. Oh, I think I probably had a phone number,  
21 whether or not I could reach the individual was another  
22 situation.

23 Q. Do you know whether anyone else in the St.  
24 Louis area with Avis kept phone numbers of listed names?

25 A. No.

- 1 Q. No, you didn't, or no, you don't know.  
2 A. No, I don't know.  
3 Q. Would you describe what the individuals did,  
4 the shuttlers?  
5 A. They moved cars from Point A to Point B.  
6 Q. Was it normally downtown to the airport or  
7 vice versa?  
8 A. Downtown to the airport or vice versa.  
9 Q. Do you know of anyone who moved them outside  
10 of that area?  
11 A. No.  
12 Q. Long distance or another city to bring your  
13 car back?  
14 A. No.  
15 Q. Do you know how these individuals found out  
16 about the shuttling?  
17 A. Word of mouth.  
18 Q. Do you know if Avis ever advertised in the  
19 newspapers?  
20 A. No, not while I was there.  
21 Q. Was there a set procedure on explaining to  
22 these individuals what shuttling involved, any instructions  
23 they were given what to do or how to do it?  
24 A. No.  
25 Q. Did you deal with them on that level when

1 they came in, explaining to them what had to be done, where  
2 they had to go?

3 A. I got involved in collecting the vehicle  
4 transfers and to make sure that a car arrived at Point A  
5 and got there, but as far as telling them what was to be done,  
6 we checked to see if they had a valid operator's permit,  
7 obviously, and from that point on, I think it was assumed.

8 Q. You mentioned a vehicle transfer contract.  
9 Let me show you what was previously marked as Defendant's  
10 Exhibit A, and ask you if you can identify that.

11 A. Yes, that is the old type.

12 Q. A vehicle transfer contract?

13 A. It is.

14 Q. Was the document or one similar to it used  
15 in St. Louis when you were city manager or airport manager?

16 A. It was, right.

17 Q. Was one of these transfer contracts used  
18 every time a shuttler moved a car for Avis?

19 A. Right.

20 Q. Was the purpose of that document explained  
21 to the shuttlers?

22 A. No. I don't know that it was. It was a  
23 document just to record the movement.

24 Q. Did you ever have a shuttler who refused  
25 to sign one of those?

1 A. No.

2 Q. When a shuttler came in, did you ask him for  
3 the social security number, do you recall?

4 A. No.

5 Q. You mentioned before, you checked the  
6 driver's license. Was that done everytime a shuttler came  
7 in to drive, or did you get to know some?

8 A. I would always check.

9 Q. Even if you knew him and had seen him before?

10 A. Right.

11 Q. You checked everytime he drove?

12 A. Every trip.

13 Q. Every day, let's put it that way?

14 A. Right.

15 Q. And how about his driving record?

16 A. Well, we would check the reverse side for  
17 violations.

18 Q. St. Louis or Missouri at that time had it  
19 on the back?

20 A. Right.

21 Q. How about home address or phone number, would  
22 you ask him for that?

23 A. Right. I think in checking the driver's  
24 license we would get the current address.

25 Q. Did you write it down?

1 A. I think we recorded it on the VTC, as I  
2 recall.

3 Q. Phone number also?

4 A. I don't think we asked for a phone number.

5 Q. Any references of any kind?

6 A. No.

7 Q. Do you recall asking him about his personal  
8 auto insurance coverage?

9 A. No.

10 Q. Did you ask him about any accidents he had,  
11 auto accidents?

12 A. No.

13 Q. Was there any kind of an interview as such?  
14 You talked with the guy when he came in, but other than where  
15 to take the car?

16 A. No.

17 Q. All right, now the best you can recall from  
18 St. Louis, would you describe the general steps, either the  
19 individual contacted Avis or Avis contacted the individual,  
20 from the time he shuttled a car to the time he actually delivered  
21 it, the various steps of the process?

22 A. Of course, we would have the vehicle staged,  
23 and a vehicle transfer would be made up for each vehicle.

24 Q. When you say staged --

25 A. In other words, we would have them corralled



1 in one area and then the VTC would be written up, and the  
2 destination would be, say, Lambert Field, or 501 North 9th  
3 Street, whatever the situation would be, and essentially that  
4 was it.

5 B, there will be someone to pick you up and bring  
6 you back.

7 Q. Did you have a shuttle car along with the  
8 operation?

9 A. We used a little Volkswagen that we would tow  
10 one out and bring drivers back.

11 Q. Do you recall if the general procedure was  
12 ever changed when you were there?

13 A. Not that I'm aware of.

14 Q. How were these individuals paid, cash, check?

15 A. By cash.

16 Q. Weekly, daily?

17 A. On a per trip basis.

18 Q. How was the amount of compensation fixed?

19 A. I think it was actually we figured that there  
20 was a certain value for moving the car and if they wanted to  
21 accept that, that was it, really.

22 Q. A fixed fee from the airport to downtown?

23 A. Yes.

24 Q. Do you recall what it was?

25 A. No, I don't, really, I want to say a dollar

1 and a half.

2 Q. But it was a buck and a half, whatever,  
3 to drive a car from here to there, take it or leave it?

4 A. An offer and acceptance type of situation.

5 Q. They were not negotiating for so much a mile,  
6 or anything like that?

7 A. Not that I know of.

8 Q. I'm not that familiar with St. Louis if there  
9 were any tolls on the way, would they get reimbursed for any  
10 tolls or expenses?

11 A. There were no tolls.

12 Q. Any other expenses they might have?

13 A. No.

14 Q. Were they given a specific route to follow?

15 A. No, but there was actually only one from  
16 downtown, that is to pick up the freeway and go right out.

17 Q. Did they have a specific time to get there?

18 A. No, only what was reasonable.

19 Q. When they left, say, downtown St. Louis, was  
20 anybody out at the airport called or informed that they were  
21 out on their way?

22 A. No.

23 Q. To expect them a certain time?

24 A. No.

25 Q. Were they allowed to use the car for personal

1 purposes on the way, picking up somebody and taking them to  
2 the airport?

3 A. No.

4 Q. Were they told this specifically?

5 A. I would think that it was implied that this  
6 was for a specific purpose and it was not to take lunch on the  
7 way or anything similar to that, which would be the personal  
8 aspect.

9 Q. Do you recall specifically telling him that?

10 MR. STILLMAN: Just tell him what you know. Don't  
11 presume anything or try and understand what might have been  
12 in somebody else's mind. If you don't know, say you don't know.  
13 If you know, tell him what you know.

14 THE WITNESS: No, we would tell them, "Take the  
15 car to the airport," and if they were not there at a reasonable  
16 time, then we would follow up with necessary instructions, if  
17 we felt that would be the situation.

18 MR. HIPPLE: Q. How would you know that they were  
19 not there at a reasonable time?

20 A. There were usually more than one driving, if  
21 one individual was there half an hour later than anybody else,  
22 and they took essentially the same route --

23 Q. Did you specifically recall telling somebody  
24 if they could take their girlfriend to the airport or take a  
25 friend out?

1 A. No.

2 Q. Was the mileage on the car checked before it  
3 left and when it reached its destination?

4 A. It was always recorded, the in and out  
5 mileage on the VTC.

6 Q. Do you recall who checked the mileage?

7 A. I would say the station which originated the  
8 trip, because these were brought back to the station.

9 Q. How about the shuttler himself, did they ever  
10 fill out the mileage?

11 A. They were supposed to either verify or fill  
12 out the mileage themselves.

13 Q. Did you tell the shuttlers what would happen  
14 if they got a speeding ticket, who was responsible for that?

15 A. Them.

16 Q. Did you tell them that or was this again  
17 something they knew or you assumed they knew?

18 A. I would say no, it was not told to them, no.

19 Q. Did you explain to them what would happen if  
20 the car broke down on the way out?

21 A. No.

22 Q. Or if they had an accident?

23 A. No.

24 Q. Do you know if anybody did, as far as the  
25 procedure that was followed in that case?

1 A. No.

2 Q. Was there any kind of a chocking procedure  
3 at the airport or at the destination that you are familiar  
4 with?

5 A. There was a box there where they dropped  
6 the VTC in, if there was no one there, but usually there  
7 was a service agent at Lambert Field to meet them.

8 Q. Was there a particular individual to meet  
9 them there?

10 A. No.

11 Q. Just find somebody who works for Avis?

12 A. Right.

13 Q. When the car arrived at the destination,  
14 was any check made of the car to see whether there were any  
15 dents added on the way out, or anything like that?

16 A. No.

17 Q. Do you know whether the shuttler was covered  
18 by Avis auto insurance on the way out when they were driving?

19 A. No, they were not.

20 Q. Was it explained to them?

21 A. No.

22 Q. Was the car itself covered?

23 A. The car itself would always be self-insured,  
24 even on a driverless concept.

25 Q. You say "self-insured." It is not an insurance

1 policy?

2 A. No, we have an insurance policy on liability  
3 and property damage.

4 Q. But as far as you know, the individual  
5 shuttlers themselves were not covered for personal injury  
6 if they got into an accident?

7 A. Right.

8 Q. Do you know whether social security,  
9 unemployment taxes, or withholding taxes were taken out of the  
10 amounts paid to them?

11 A. No.

12 Q. They were not taken out?

13 A. No, they were not.

14 Q. Was anything said to the shuttlers at the time  
15 about payroll deductions?

16 A. No.

17 Q. Were any of the shuttlers that worked for  
18 Avis full-time regular employees for Avis, such as service  
19 agents or mechanics or something like that who might have done  
20 this off the clock?

21 A. Yes. There was one period when we worked with  
22 the Teamsters' union on that in St. Louis, this is while I was  
23 at the airport.

24 MR. STILLMAN: Read me back that question again.

25 (Reporter read the question and answer.)



1 MR. HIPPLE: Will you explain as best you recall  
2 the way you worked this out with the Teamsters union?

3 A. Now, I'm not clear in my own mind. After  
4 they punched off their normal shift, whether they punched back  
5 in for the purposes of recording time, if they were paid on a  
6 hourly basis or paid on a per trip basis, but it was something  
7 that was brought up by the Teamsters union because they felt  
8 that Avis employees should have an opportunity to shuttle before  
9 an outsider.

10 Beyond that, I really couldn't be that accurate.

11 Q. Do you recall what the final result of the  
12 discussions with the union were?

13 A. No, because I transferred out before anything  
14 came up, I believe.

15 Q. Do you wouldn't know if there was any kind  
16 of written understanding or union contract?

17 A. No.

18 Q. Do you recall what the shuttlers got when  
19 they picked up a car besides keys, registration and the transfer  
20 contract? Was there anything else?

21 A. No.

22 Q. Do you know whether the shuttlers were  
23 covered by Avis health insurance or any other fringe benefits  
24 while they were driving?

25 A. No, they were not.

1 Q. Do you know of any of them that ever filed  
2 any claims for either fringe benefits or health benefits?

3 A. No.

4 Q. Was anyone who shuttled frequently for  
5 Avis given a preference as a regular shuttler?

6 A. No.

7 Q. First come, first served?

8 A. Right.

9 Q. To the best of your knowledge, did any of  
10 the shuttlers ever have to share any part of their fee or  
11 compensation with anybody else?

12 A. No.

13 Q. Do you know if any of them were ever approached  
14 to do so?

15 A. Not that I am aware of.

16 Q. A little earlier we were talking about the  
17 head shuttler as such. Was he compensated any differently or  
18 any greater amount than the other shuttlers?

19 A. He got an additional amount for driving this  
20 bug, or the car I was mentioning, because he was actually  
21 driving the car both ways, where the others were passengers  
22 one way.

23 Q. He got mileage out and back instead of just  
24 one way?

25 A. No. He got a set fee for one trip.

1 Q. Was it twice the fee for one way?

2 A. No.

3 Q. Are you familiar with any records maintained  
4 by Avis while you were in St. Louis to show the amount, purpose  
5 and number of the payments to the shuttlers?

6 A. No.

7 Q. When they delivered a car, they were paid  
8 cash. Was there any kind of a receipt or pay cash slip signed?

9 A. Yes, we paid out the document payment.

10 Q. Was a petty cash slip set up specifically  
11 for the shuttling, or just a general pay cash slip.

12 A. No, a general pay cash document.

13 Q. Do you recall any numbers or symbols on the  
14 pay cash slip to identify it as paying the shuttlers?

15 A. No.

16 Q. Do you recall any kind of an account number  
17 to identify the shuttling from some other activity?

18 A. Right. We did have an account for vehicle  
19 movement expense.

20 Q. Do you recall what the number was, or how it  
21 was identified?

22 A. It should be 423, maybe 424, depending on the  
23 accounting interpretation.

24 Q. That was the regular shuttling account?

25 A. Yes.

1 Q. Do you recall any four-digit numbers associated  
2 with the shuttling operation?

3 A. No.

4 Q. Any kind of an employee or employer number,  
5 four-digit number, that might have been on the pay cash slip?

6 A. No.

7 Q. Let me try this. Will you mark this as  
8 Exhibit B.

9 (Document marked as Defendant's  
10 Exhibit B.)

11 MR. HIPPLE: Q. I hand you Defendant's Exhibit B.  
12 Explaining what it is, we had a group of revenue agents going  
13 to the warehouse in Garden City and pull out petty cash slips  
14 from the different cities, and we asked them for 50 names,  
15 trying to identify the shuttlers, and Exhibit B I just gave you  
16 is the list of names from St. Louis, '62, '63, and '64, showing  
17 the names for employees EMP, period number, names and date.

18 First of all, do you recognize any of the names  
19 on there of shuttlers?

20 A. Jessie Stocking, I think he works there, if it  
21 is the same.

22 Q. He works there as a regular Avis employee,  
23 service agent, or something like that, or as a shuttler?

24 A. At the time I was there he was an Avis employee.

25 Q. He still is, by the way.

A. Robert Stocking, I believe, is his brother,

1 and he was, as I recall, a shuttler and not an employee.

2 The other names don't really come through.

3 Q. Okay, that second column, it has the EMP  
4 number. Do you have any idea what those four-digit numbers by  
5 some of the names would reflect? I think these came off the  
6 petty cash slips from the warehouse.

7 A. You know, when you make a petty cash paid out,  
8 the individual making the payment is required to put his employee  
9 number on that.

10 Q. Would that be what it was, possibly?

11 A. Possibly at that time employee numbers were  
12 four digits, but that is speculation.

13 Q. We have been trying to find out what these  
14 numbers are.

15 Okay, that is all I want on that. Thank you.

16 Was the need for shuttlers in St. Louis a regular  
17 thing, or did it peak at certain times, certain days?

18 A. They would peak at certain days.

19 Q. Specific day every week, or would it vary?

20 A. It would vary.

21 Q. Any particular reason that you are aware of?

22 A. Just logistics, supply and demand.

23 Q. To the best of your recollection, was there  
24 any individual who would shuttle cars for Avis in St. Louis  
25 while you were there ever refused or not allowed to do it again

1 for some reason?

2 A. Yes, I believe we had individuals that had  
3 accidents that we did not feel were a good risk.

4 Q. Do you recall any specific instances of  
5 someone being told he couldn't drive again?

6 A. I have told them myself.

7 Q. Was that because of accidents?

8 A. Yes.

9 Q. During the time you were there, am I correct  
10 that none of these people were covered by the Avis contract  
11 with the local Teamsters union, the shuttlers?

12 A. Right, no, they would not have been.

13 Q. Now we were talking about St. Louis. You left  
14 St. Louis around 1965, 1966?

15 A. '66.

16 Q. And came to San Francisco?

17 A. San Francisco, yes.

18 Q. Did you have any contact with the shuttling  
19 operation at San Francisco?

20 A. No.

21 Q. How long were you here in San Francisco?

22 A. In San Francisco for five years.

23 Q. And then to Oakland?

24 A. Okay, just to restate it, I was in the  
25 Regional Office traveling on the road for a year. Then I was



1 in Oakland for a year and in San Francisco downtown for  
2 three years, so that comprises the five-year period.

3 Q. When you first got here the first year,  
4 through '66 and '67, you had nothing to do with the shuttling  
5 operation?

6 A. Nothing.

7 MR. HIPPLE: I think that will do it.

8 MR. STILLMAN: I have no questions.

9  
10  
11 HERBERT V. ELLIOTT  
12

13 \* \* \* \* \*  
14 [Reporter's Certificate omitted in duplicating]  
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1 UNITED STATES DISTRICT COURT  
2 EASTERN DISTRICT OF NEW YORK  
3

4 AVIS RENT-A-CAR SYSTEM, Inc., )  
5 Plaintiff, )  
6 vs. )  
7 UNITED STATES OF AMERICA, )  
8 Defendant. )  
9

No. 70-C-70

[Filed April 9, 1973]

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15 DEPOSITION OF  
16 CLARK N. SEIDEL  
17 February 27, 1973  
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I N D E X

Deposition of Clark N. Seidel	<u>Page</u>
Examination by Mr. Hipple	4

E X H I B I T S

Defendant's  
Exhibit No.

A.	Summary of Petty Cash Clips (Referred to but not made a part of this deposition.)	26
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1 BE IT REMEMBERED that, pursuant to Notice and Subpoena,  
2 and on Tuesday, February 27, 1973, commencing at the hour of  
3 9:35 O'clock a.m. thereof, at the offices of James L. Browning,  
4 Jr., United States Attorney, 450 Golden Gate Avenue, San  
5 Francisco, California, before me, PAUL SCHILLER, a Notary  
6 Public in and for the City and County of San Francisco, State  
7 of California, personally appeared

8 CLARK N. SEIDEL,

9 called as a witness by the defendant, who, having been by me  
10 first duly sworn, was thereupon examined and testified as  
11 hereinafter set forth.

12 --oOo--

13 SMART B. STILLMAN, Esquire, 900 Old Country Road,  
14 Garden City, New York 11530, appeared as counsel on behalf  
15 of the plaintiff; and

16 ROBERT J. HIPPLE, Esquire, Trial Attorney, Tax Division,  
17 Department of Justice, Washington, D. C. 20530, appeared as  
18 counsel on behalf of the defendant.

19 --oOo--

20 MR. STILLMAN: For the record, before we start the  
21 deposition, I object to questions asked that may be asked --  
22 and I have a continuing objection, just so I don't have to  
23 keep objecting -- with respect to questions that will involve  
24 facts exclusive of the years 1962 to 1966.

25 MR. HIPPLE: Okay.

1 It was stipulated that the said deposition shall be  
2 reported by PAUL SCHILLER, a certified shorthand reporter and  
3 disinterested person, and thereafter transcribed into  
4 typewriting, to be read to or by the said witness, who, after  
5 making such corrections therein as are necessary, will subscribe  
6 the same.

7 It was further stipulated that in the event the said  
8 deposition is not signed by the witness, reasonable opportunity  
9 having been had to do so, it may be used with the same force  
10 and effect as though it had been signed.

11 It was further stipulated that all objections not made  
12 herein to questions propounded to the said witness shall be  
13 reserved by each of the parties until the time of trial, save  
14 and except any objections as to the form of the questions  
15 propounded.

16 It was further stipulated that in the event the witness  
17 should refuse to answer any questions propounded by counsel,  
18 it shall be deemed that the notary public has instructed the  
19 witness to answer and that he still refuses so to do.

20 --oOo--

21 CLARK N. SPIDEL,  
22 having been first duly sworn, testified as follows:

23 EXAMINATION BY MR. HIPPLE

24 MR. HIPPLE: Q. Will you state your name and address,  
25 please.

1           A.   Clark N. Seidel, S-e-i-d-e-l, 863 El Capitan,  
2 Millbrae, California.

3           Q.   And your current occupation?

4           A.   I am Pacific Regional Vice-President for  
5 Avis Rent-A-Car.

6           Q.   How long have you been with Avis?

7           A.   Since January, 1964.

8           Q.   Have you been in San Francisco that whole  
9 time?

10          A.   No, I have not.

11          Q.   Where have you been?

12          A.   I was stationed in Los Angeles prior to  
13 moving to San Francisco.

14          Q.   Did you start in Los Angeles in 1964?

15          A.   Yes, I did.

16          Q.   What was your position then?

17          A.   Field director.

18          Q.   And your duties?

19          A.   I traveled and represented Avis to its  
20 licensees.

21          Q.   Am I correct that Los Angeles is a licensee?

22          A.   Yes.

23          Q.   Was it at the time?

24          A.   Yes.

25          Q.   How long did you remain in the Los Angeles



1 office?

2 A. Until July of 1965.

3 Q. And you came to San Francisco at that point?

4 A. Yes.

5 Q. In what capacity?

6 A. San Francisco Airport District Manager.

7 Q. In connection with your work in the Los  
8 Angeles office, did you have any contact or any familiarity  
9 with the use of shuttlers, car shuttlers by Avis?

10 A. No.

11 Q. And subsequently, through your work in  
12 San Francisco, did you become familiar with the use of  
13 shuttlers?

14 A. Yes.

15 Q. First of all, would you describe how you  
16 became familiar with the use of shuttlers?

17 A. My first job in San Francisco was at San  
18 Francisco Airport and shuttlers were sometimes used to bring  
19 cars into the airport and take them out of the airport.

20 Q. What were your exact duties at the airport?

21 A. I managed the Avis operation at San Francisco  
22 Airport, all facets.

23 Q. Would you describe what shuttlers did, to  
24 the best of your knowledge?

25 A. They brought cars into the airport area

PAUL SCHILLER

OFFICIAL REPORTER, U. S. DISTRICT COURT  
SAN FRANCISCO, CALIFORNIA

1 other stations and when we had more cars than necessary, they  
2 took cars out of the airport to other stations.

3 Q. Were the stations always in the San Francisco  
4 area?

5 A. Yes.

6 Q. You don't know of any longer-distance trips?

7 A. Yes, I do. I know that some of the cars came  
8 in from Sacramento.

9 Q. Anything longer than that, out-of-state or  
10 Los Angeles?

11 A. May I ask you now, are you referring to the  
12 point where I was at San Francisco Airport only?

13 Q. Yes, right.

14 A. At that time, no.

15 Q. That was mostly just from the airport into  
16 the stations in the city and back out again?

17 A. Yes. Of course, that would be the only thing  
18 we would be interested in.

19 Q. Did you in your capacity have any day-to-day  
20 contact with the shuttlers?

21 A. Yes.

22 Q. And would you describe, to the best of your  
23 recollection, how you contacted them or how they contacted you?

24 A. Well, my day-to-day contact was simply that  
25 this --

1 MR. STILLMAN: No, his question how you contacted  
2 a shuttler. He means about working, right?

3 MR. HIPPLE: Yes.

4 THE WITNESS: I did not.

5 MR. HIPPLE: Q. What was your contact with the  
6 shuttlers?

7 A. They would bring me cars when I needed them  
8 and take them away when I didn't.

9 Q. Did you talk to them directly or through  
10 subordinates?

11 A. No, I talked to them directly.

12 Q. Were you there at the airport when you had  
13 a car taken downtown or did you call somebody; was there a  
14 set procedure when you wanted a car moved from the airport  
15 downtown?

16 A. Yes, I would call the zone office.

17 Q. Any particular individual?

18 A. The zone manager.

19 Q. Who was that at the time, do you recall?

20 A. At that time it was Ronald Siebert,  
21 S-i-e-b-e-r-t.

22 Q. Did he make the arrangements for the shuttlers  
23 to pick up cars or bring cars to the airport?

24 A. Yes.

25 Q. You did not do that yourself, then?

1 A. No.

2 Q. Were there a group of shuttlers who were at  
3 the airport regularly?

4 A. No.

5 Q. And do you know whether or not there was  
6 a group of shuttlers someplace in San Francisco, one of the  
7 Avis offices?

8 A. At that time?

9 Q. Yes.

10 A. No.

11 Q. And do you know how Mr. Siebert contacted the  
12 shuttlers when they needed somebody to bring cars out or cars  
13 back into the city?

14 A. Yes, I do.

15 Q. Would you explain how he did?

16 A. Yes. They were employees.

17 Q. At the time?

18 A. Yes.

19 Q. Full time during the day?

20 A. No. I must admit I am getting ahead of the  
21 story here because I became familiar with the shuttle situation  
22 later.

23 Q. Yes.

24 A. At the time that you're asking me about  
25 presently, I really do not have all this knowledge.

1 Q. This is something you found out later in a  
2 different position?

3 A. Yes.

4 Q. Let's keep it now to what you knew at the  
5 time. We are talking about July of 1965 or after that.  
6 What knowledge did you have from that point on how the  
7 shuttlers were contacted?

8 A. None.

9 Q. Okay. Let's get into later periods. Did you  
10 subsequently leave the airport and assume a different position  
11 with Avis?

12 A. Yes, I became San Francisco Zone Manager.

13 Q. When was that?

14 A. In October of 1965.

15 Q. And your duties in that position?

16 A. I managed the entire San Francisco Zone  
17 operation for Avis.

18 Q. As part of your job as Zone Manager, was it  
19 to see there were enough cars in locations?

20 A. Yes.

21 Q. Did that involve moving cars from one location  
22 to another?

23 A. Yes.

24 Q. In that capacity, did you deal with shuttlers?

25 A. Yes.

1 Q. Where were you based at this point?

2 A. 675 Post Street, San Francisco.

3 Q. Were there a group of individuals at that  
4 address, 675 Post Street, who did shuttling for Avis?

5 A. No.

6 Q. Did Avis have a group of individuals who did  
7 shuttling on a regular basis anywhere?

8 A. No.

9 Q. You mentioned earlier, I was not quite sure  
10 at what point in time you were talking about, Avis using  
11 employees to do this. Would you describe first when that was.

12 A. Yes. In 1965 and '66 when I was Zone Manager,  
13 when we needed the cars moved, we would call pursuant to our  
14 union agreement the union, and they would send up whatever  
15 number of shuttlers that we would need.

16 Q. What union was that?

17 A. Local 665 of the Teamsters.

18 Q. Was there a written contract?

19 A. Yes.

20 Q. Do you know where a copy of that is now?

21 A. The present union contracts, of course, this  
22 has been renegotiated and renewed through the years, it would  
23 be on file at the San Francisco Zone Office.

24 Q. Would you have a copy of the contract in '64,  
25 '65 and '66?



1 A. I don't know.

2 Q. Do you think we can find a copy of that?

3 MR. STILLMAN: If it is available we will produce  
4 a copy.

5 MR. HIPPLE: Q. Do you recall how the compensation  
6 was worked out with the individuals who did the shuttling?

7 A. Yes. They were put on the clock and paid.

8 Q. Do you recall the general terms of the  
9 contract? I know it has gone through different stages in the  
10 meantime. The general outline of it with the Teamsters?

11 A. In regard to the shuttlers?

12 Q. Before we get to that, let me ask you this,  
13 was this contract only directed to shuttlers or to all employees  
14 of Avis in one way or another?

15 A. It had to do with service agents, truck  
16 drivers, shuttlers. There were different classifications  
17 in the contract.

18 Q. But it was all one contract with all these  
19 employees?

20 A. Ye

21 Q. Now, with respect to the shuttlers, could  
22 you describe as best you can recall the general outlines of  
23 the contract? I realize that the contract itself would be  
24 the best evidence. However, we are not sure if we are able  
25 to find the copies.

1 (Discussion off the record.)

2 MR. HIPPLE: Q. Would you describe to the best of  
3 your recollection the terms of that contract with the Teamsters  
4 with respect to shuttlers?

5 A. Well, with shuttlers, we were required to call  
6 the union hall when we needed shuttling done. They would send  
7 up people and we would put these people on the clock and use  
8 them. There was a clause in there that said we had to use them  
9 a minimum of four hours, and we would use them four hours to  
10 12 hours per day, and all the other terms of the contract were  
11 enforced.

12 If we worked them over eight hours, we would have  
13 to pay them time and a half, and they would then be paid by  
14 regular payroll check along with all the other employees at  
15 the end of the pay period.

16 Q. Were there specific individuals involved in  
17 this, or anyone the union sent up?

18 A. Anyone the union sent up.

19 Q. Do you recall approximately how many of these  
20 people were used, say in a week's time, different individuals?

21 A. Two to ten.

22 Q. There is no specific number of specific  
23 minimum you had to use in the contract?

24 A. No. We could call one if we needed one.

25 Q. Do you have any idea where the Teamsters local

1 got these individuals?

2 A. Yes. They had a hiring hall in downtown  
3 San Francisco and in the morning these men who were all, of  
4 course, bona fide dues paying members of the local, would  
5 show up for work, and if possible the union would assign them.

6 Q. Do you know of your own knowledge whether any  
7 other car companies, like Hertz and National had the same kind  
8 of an arrangement with the union?

9 MR. STILLMAN: I object to that. That has nothing  
10 to do with this case. I don't think it is a proper question.

11 MR. HIPPLE: What I'm trying to get at is whether  
12 this group of individuals may show up and get farmed out by  
13 the union to Hertz, Avis and anybody else.

14 MR. STILLMAN: That would depend whether the  
15 unions had contracts with all the other companies.

16 MR. HIPPLE: That is what I am asking, Avis needs  
17 five, Hertz needs five --

18 MR. STILLMAN: All right, I don't see what it does --

19 MR. HIPPLE: Q. If you know, that is the question.

20 MR. STILLMAN: If you don't know, Clerk, just say  
21 you don't know.

22 THE WITNESS: I don't know.

23 MR. HIPPLE: Okay.

24 Q. Did the shuttlers when they came down to pick  
25 up a car to take a car to the airport have any piece of paper

1 or contract or some kind of documents to transfer the car  
2 itself?

3 A. Yes, they would be put on a non-revenue ticket.

4 Q. Would you describe that briefly?

5 A. Well, under Avis policy --

6 MR. STILLMAN: No, he wants you to describe the  
7 document.

8 THE WITNESS: Oh, the document. Well, it is a  
9 document, I believe there were three copies to it and it  
10 provided a space to show where the car had been moved from  
11 and where it had been taken to and, of course, it provided  
12 for mileage. Mileage out and the mileage upon arrival.

13 Q. And you say this individual was paid on the  
14 clock. Was it a negotiated hourly rate?

15 A. Yes.

16 Q. Do you know whether or not they incurred any  
17 additional expenses for tolls or parking or gas, oil, things  
18 like that?

19 A. Yes.

20 Q. How was that handled on the contract?

21 A. That would be paid to them by the petty cash  
22 on the given day.

23 Q. Do you know how they accounted for that?

24 A. Yes. They would be asked to sign a petty  
25 cash voucher.

1 Q. Were there any kind of identification numbers  
2 or symbols or anything on the voucher to identify it as  
3 shuttling or anything else?

4 A. Not to my knowledge, really.

5 Q. Was the petty cash slip itself a printed form?

6 A. Yes.

7 Q. All right, with respect to any one of the  
8 shuttlers who were sent by the Teamsters local, did Avis maintain  
9 any kind of personal information?

10 A. Not at the local level.

11 Q. Did anybody at the local level check their  
12 driver's license?

13 A. Yes.

14 Q. Was this a regular procedure everytime a  
15 driver came?

16 A. Yes.

17 Q. Do you know whether or not there were certain  
18 regular drivers that showed up more than once?

19 A. Yes.

20 Q. And was his license normally checked everytime  
21 he came?

22 A. Yes.

23 Q. Was this a specific procedure that they were  
24 required to follow?

25 A. Yes.



1 Q. How about the social security number, was  
2 this picked up from the union, or when the driver showed up?

3 A. Whenever a man came up for the first time,  
4 he would be required to give us his social security number.

5 Q. Was there a specific form that it was entered  
6 in?

7 A. Yes. Now I am a little bit hazy on this  
8 because of the number of years, but I think we had him the  
9 first time up fill out a regular employment application form.

10 Q. That would be the same application of any  
11 employee, regardless of his function?

12 A. Yes.

13 Q. Did you check the driver's driving record?

14 A. In those days, no.

15 Q. I asked you before if any personal records  
16 were maintained of these individuals and you said, "Not at the  
17 local level." Were there records maintained at any level?

18 A. I don't know.

19 Q. You don't know yourself of any particular  
20 records maintained?

21 A. Right.

22 Q. Did Avis ever contact any of these individuals  
23 directly?

24 A. No.

25 Q. Was that part of the union contract?



1 A. It sure was.

2 Q. Do you know of your own knowledge of any other  
3 cities in which Avis operates where they have a similar kind of  
4 arrangement with the union?

5 A. No.

6 Q. You never dealt anywhere other than Los Angeles  
7 and San Francisco?

8 A. I only dealt in San Francisco.

9 Q. On this basis?

10 A. Yes.

11 Q. Was there any kind of an interview with the  
12 individuals, the shuttlers who were sent over by the Teamsters?

13 A. No.

14 Q. Any kind of a background check on them?

15 A. No.

16 Q. Do you know if the union did that?

17 A. I don't know.

18 Q. I think you covered this before but the  
19 shuttlers are paid on regular payroll checks?

20 A. Yes.

21 Q. Weekly or every two weeks?

22 A. Biweekly.

23 Q. Do you know if Avis has ever operated car  
24 shuttling systems other than through this union?

25 A. I don't understand the question.

1 Q. Other than through the union contract, other  
2 than calling up the union and saying, "Send people," have they  
3 operated directly with the shuttlers themselves?

4 A. In San Francisco, no.

5 Q. When the shuttler was given a car, was he  
6 given any specific instructions or directions on what to do,  
7 other than where he was going?

8 A. No.

9 Q. Nothing on what route to follow, how soon he  
10 was to get there?

11 A. No.

12 Q. If the shuttler went out to the airport, how  
13 did he normally get back to San Francisco?

14 A. He would get a ride back along with a whole  
15 group of shuttlers in a shuttle car, or perhaps there would  
16 be a car coming the other direction and he would make a round  
17 trip, taking one car to the airport and another one back.

18 Q. Do you know of any occasion when a shuttler  
19 was asked to pick up a car that had been dropped somewhere else,  
20 such as Los Angeles or Sacramento, on a one-way basis?

21 A. It was a San Francisco car?

22 Q. Yes.

23 A. Yes.

24 Q. How was that handled?

25 A. The same way. There were some occasions in

1 these days, you mentioned specifically Sacramento, and on  
2 occasion we did send our shuttlers to Sacramento to pick up  
3 vehicles and bring them back to San Francisco.

4 Q. Did you pay their way down?

5 A. They were on the clock.

6 Q. I mean transportation.

7 A. Yes. We would get them to Sacramento,  
8 usually by giving them a car to round trip.

9 Q. Did you have any occasions, at least that  
10 you can remember, that there were longer distances involved,  
11 say up to Washington, Oregon, or something like that?

12 A. No.

13 Q. Did you ever have occasion when an out-of-town  
14 or out-of-state car was left in San Francisco and was picked  
15 up by a shuttler from another Avis office --

16 A. No, I would not have any knowledge on the  
17 status of the people coming in to pick up other cars.

18 Q. You don't know whether it happened or not?

19 A. I know that in many cases other cities  
20 arranged to pick up their cars in San Francisco.

21 Q. Do you have any idea who they would deal with  
22 at San Francisco when they came to pick up a car?

23 A. No.

24 Q. Was the mileage on the car checked at each  
25 end?

1 A. No.

2 Q. And do you know what happened if the driver  
3 got a speeding ticket on the way?

4 A. Yes, I do. He certainly would not tell us  
5 about it and would take care of it himself.

6 Q. Was this mentioned specifically, or something  
7 that was just understood?

8 A. No, it was mentioned to them specifically.

9 Q. If they did get a speeding ticket, were  
10 sanctions of any kind imposed by Avis?

11 A. If it came to our knowledge that a person  
12 had bad driving habits, we would tell the union that we did  
13 not want this person ever sent up any more.

14 Q. So you had this power under the union contract  
15 to indicate that a particular individual was not desired any  
16 more?

17 A. Yes.

18 Q. How about parking tickets, do you recall that  
19 ever coming up?

20 A. Yes.

21 Q. And what happened to parking tickets?

22 A. The same thing.

23 Q. They were responsible for any tickets they  
24 got?

25 A. That is correct.

PAUL SCHILLER

OFFICIAL REPORTER, U. S. DISTRICT COURT  
SAN FRANCISCO, CALIFORNIA

1 Q. What happened if a car broke down on the way?

2 A. They would phone in for help. We would send  
3 a mechanic or a tow truck out to retrieve them.

4 Q. Was this procedure explained to them?

5 A. Yes.

6 Q. How about if they are in an accident; did you  
7 explain to the men what to do or who to call?

8 A. Yes. They would call in immediately and  
9 would then be instructed over the phone.

10 Q. These instructions on accidents and breakdowns,  
11 et cetera, was this given every morning or every time you had a  
12 group of shuttlers come in, explained to them as a group, or  
13 each individual?

14 A. Yes, I think I can answer that "Yes." It was  
15 informal, but when the first dispatch of the morning took  
16 place, there would be a reminder.

17 Q. Did you do that yourself or someone under you?

18 A. I sometimes did it myself.

19 Q. Was there a set procedure to follow in checking  
20 these drivers in from the local, explaining what they had to do  
21 or couldn't do?

22 A. Yes, there was.

23 Q. Could you describe it as best you can recall?

24 A. We did make it a definite practice to check  
25 their driver's licenses every morning, even if we had seen the



1     guy the day before, because things can change in 24 hours.

2             We would make sure they had a valid driver's  
3     license, that they were over 21, and there would always be  
4     some sort of comment made to the effect that everyone is  
5     instructed to drive within the law, "And remember, you are  
6     responsible for your own citations."

7             Q.     Were they allowed to pick up passengers on  
8     the way out?

9             A.     No, they were not.

10            Q.     Was this explained to them also?

11            A.     No.

12            Q.     Do you know if they knew that?

13            A.     I don't know.

14            Q.     Are you familiar with the insurance coverage  
15     on the shuttlers while they were driving, if there was any?

16            A.     Yes.

17            Q.     Would you describe what insurance coverage  
18     there was?

19            A.     They would be covered by regular 100,000/300,000  
20     policy, just like our customers or any other employee.

21            Q.     So the car and the driver itself was covered  
22     by insurance, the car for property damage and the individual  
23     for any bodily injury?

24            A.     Yes.

25            Q.     We discussed this off the record, but do you



1 know whether social security, unemployment taxes, withholding  
2 taxes, were taken out for the individuals?

3 A. Yes, I do.

4 Q. And it was, I assume?

5 A. Yes.

6 Q. Do you recall what the drivers were given  
7 when they got the car itself, you mentioned the non-revenue  
8 ticket. I assume they got keys and registration for the car.

9 A. Yes.

10 Q. Was there anything else?

11 A. No.

12 Q. Were the shuttlers covered by any of the  
13 fringe benefits available to Avis employees? Health insurance  
14 any other fringe benefits?

15 A. Yes.

16 Q. Do you know how that was handled?

17 A. You would have to go back to the contract.  
18 It specified in it that they were eligible for this and not  
19 eligible for that. I don't remember exactly which, and it  
20 was handled through the various union programs.

21 Q. You mean the benefits that would be Teamster  
22 benefits more than Avis benefits?

23 A. Yes.

24 Q. Do you know whether they had to work a certain  
25 number of hours a week or a certain number of hours minimum

1 before they qualified for any of these benefits?

2 A. Yes, there was some sort of qualification  
3 in there.

4 Q. You don't remember now what it was?

5 A. No.

6 Q. Do you know whether any of the individuals  
7 who shuttled frequently were given preference as a regular  
8 shuttler?

9 A. No, I don't.

10 Q. All you would do is call the union and  
11 they would send however many you needed?

12 A. Yes.

13 Q. Do you recall if Avis was required to withhold  
14 union dues out of the amounts paid?

15 A. No, I don't.

16 Q. Do you know whether any of the shuttlers  
17 had to share part of their fee with anybody else?

18 A. No, I don't.

19 Q. Was there a foreman or head shuttler?

20 A. No.

21 Q. Other than maybe yourself or somebody under  
22 you?

23 A. No. They were just shuttlers. Sometimes  
24 a manager would get in and go with them if it was a particularly  
25 critical dispatch or whatever, we might send the manager with

1 them.

2 Q. Did the shuttlers have any kind of identifica-  
3 tion card or badge or something like that to identify them as  
4 Avis employees?

5 A. No.

6 Q. Did they wear an Avis jacket or anything like  
7 that?

8 A. No.

9 Q. There was no way to seeing them or asking them  
10 that they could identify themselves as employees of Avis?

11 A. That is correct.

12 Q. Are you familiar with any records that Avis  
13 locally maintained to show the dates and the amounts of  
14 payments to these individuals?

15 A. Locally, no, I'm not.

16 MR. HIPPLE: Can we go off the record for a minute.

17 (Discussion off the record.)

18 MR. HIPPLE: Q. Let me show you what we marked as  
19 Defendant's Exhibit A, that is a summary from the petty cash  
20 slips from the Avis warehouse in Garden City, pulled out by  
21 Internal Revenue agents. They show a list of shuttlers locally.  
22 We used this to find people. Let me ask you first if you are  
23 familiar with any of the names on it.

24 A. Yes, I am.

25 Q. Do you know who they were or are?

1 A. I recognize several past employees, full-time  
2 employees. I recognize a couple that are still with us.

3 Q. Were they all shuttlers, the ones you  
4 recognize, or employed in other capacities?

5 A. No, the ones that I recognize here, there are  
6 some managers here and I recognize at least two names on here  
7 of regular full-time service agents who are still with us.

8 Q. Do you know whether any of those individuals  
9 whose names you recognize ever shuttled cars for Avis?

10 A. Yes, because as service agent, it is part of  
11 his regular duties quite often to move a car, therefore the  
12 term "shuttle" would mean to move a car.

13 Q. Do you do it from the airport downtown?

14 A. Yes.

15 Q. You mentioned before that the individuals  
16 are paid on the clock through the regular payroll accounts.  
17 Could you explain, if you know, why the amounts shown in  
18 Exhibit A would show up in the petty cash column? That would  
19 be the next to the last column, left to right.

20 A. That would be conjecture.

21 Q. Okay, let's not go beyond that. Do you see  
22 the column, EMP, with a number?

23 A. Yes.

24 Q. Do you have any idea what those four-digit  
25 numbers refer to, some of those?

- 1 A. No, I don't.
- 2 Q. Are any of those the same?
- 3 A. Yes, they are.
- 4 Q. You don't know whether that is some kind of
- 5 accounting record number or anything else?
- 6 A. I don't know. I don't recognize the number
- 7 at all.
- 8 Q. Do you have any idea who might know?
- 9 A. No, I don't.
- 10 Q. I asked you before, there were no numbers
- 11 of any kind on the petty cash slips themselves?
- 12 A. The vouchers?
- 13 Q. The petty cash vouchers.
- 14 A. I don't remember.
- 15 Q. How about the revenue ticket, was there a
- 16 number on that?
- 17 A. Yes, they were numbered.
- 18 Q. Was it a three- or four-digit number?
- 19 A. They were more than a four-digit number.
- 20 Q. Was the need for shuttlers locally a regular
- 21 thing or did it peak at certain times or certain dates?
- 22 A. Both.
- 23 Q. You better explain that.
- 24 A. There was rarely a day that went by that
- 25 we did not call the union for a few shuttlers, one, two, or

1 three. And on the other hand, there were days when we called  
2 for as high as 15 or even 20, so there was a peak.

3 Q. Was this a specific day during the week or  
4 weekends, do you know when this would be?

5 A. No. The peaks would usually be caused by  
6 some outside influence like fog, closing one of the airports  
7 while the others stayed open. The breakup of a major  
8 convention.

9 Q. Do you recall any situations where there was  
10 an outside influence such as that, and you did not have enough  
11 shuttlers available from the union?

12 A. Yes.

13 Q. What did you do at that point?

14 A. Management shuttling.

15 Q. There was no problems with the union contract  
16 in that case?

17 A. No. If we called the union and they could  
18 not supply -- they were very touchy about the management doing  
19 their work -- but if we had a bona fide call to them and they  
20 could not supply what we needed, all bets would be off and  
21 everyone would shuttle.

22 Q. Were the management people who did this on  
23 occasion reimbursed in any way for that?

24 A. No.

25 Q. Did they get any expenses back which they had?



1 A. Tolls.

2 Q. Tolls and that sort of thing?

3 A. Yes.

4 Q. We covered this briefly, but to your knowledge,  
5 again from this period of time, was any individual who had  
6 shuttled cars for Avis in the past through this union contract  
7 refused or not allowed to do so again for some reason?

8 A. Yes.

9 Q. Do you remember any of the circumstances,  
10 any of the reasons why?

11 A. Yes. Having two accidents within a short  
12 period of time would be one reason.

13 Q. Was this contained in the contract or just  
14 an understanding with the union?

15 A. It was an understanding.

16 Q. Do you know if the contract itself covered  
17 this at all?

18 A. I don't believe that it did.

19 Q. Do you recall whose decision it was that a  
20 particular individual could not drive again?

21 A. Basically it was mine at the time I was zone  
22 manager.

23 Q. During the time that you were zone manager  
24 or any other position dealing with the shuttlers, did the  
25 procedures that you have been describing change in any way?

1           A.   Approximately mid- or late '66 the union  
2 requested, demanded, it was a point at negotiation that instead  
3 of the shuttlers having to wait for the end of the pay period  
4 two weeks later to get a pay check, that they be paid on the  
5 spot as they finished their day's work, either in cash or by  
6 local petty cash check, and we gave in to this demand and made  
7 arrangements to do this.

8           Q.   How were they compensated then, were they  
9 still on the clock?

10          A.   Oh, yes.

11          Q.   Did they punch in?

12          A.   Yes.

13          Q.   You said late '66, mid- to late '66?

14          A.   I am a little vague on my dates now, but it  
15 was in 1966.

16          Q.   Do you know whether or not the regular  
17 payroll deductions were taken out of the amounts they were  
18 paid everyday?

19          A.   Yes, they were.

20          Q.   Do you know how it was handled internally,  
21 the actual computation of how much to deduct from each  
22 individual?

23          A.   Yes. I should not have answered "Yes."  
24 I did at the time, and I frankly don't remember right now.

25          Q.   But there was a set procedure on how you

1 calculated the amount that had been deducted?

2 A. Yes.

3 Q. Do you recall who actually did that within  
4 the office? Not the name but the position, or who would be  
5 able to tell us now what the procedure was?

6 A. I am not sure. I think it would have been  
7 the Zone Administrative Assistant.

8 Q. And was this all contained in a union contract?

9 A. Again, I'm not sure on this. The years are  
10 getting far back, but I believe there was a Letter of Agreement  
11 between the company and the union as to how this would be  
12 handled.

13 Q. And do you know whether a copy of that is  
14 in existence today?

15 A. I don't know.

16 Q. Would you have it in your office?

17 A. Definitely not my office.

18 Q. Would you know which office to look, could  
19 we find a copy of it?

20 A. I suggest the present Zone office.

21 MR. HIPPLE: Would you try and find one of those,  
22 too, and send me a copy?

23 MR. STILLMAN: Yes.

24 MR. HIPPLE: That is all of that.

25 THE WITNESS: All right.

1 MR. STILLMAN: I have no questions.

2 MR. HIPPLE: Thank you.

3  
4  
5 CLARK N. SEIDEL  
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9 [Reporter's Certificate omitted in duplicating]  
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UNITED STATES DISTRICT COURT  
EASTERN DISTRICT OF NEW YORK

AVIS RENT-A-CAR SYSTEM, Inc., )  
 )  
 Plaintiff, )  
 )  
 vs. )  
 )  
 UNITED STATES OF AMERICA, )  
 )  
 Defendant. )

No. 70-C-70

[Filed April 9, 1973]

DECLARATION OF

RODOLPH P. ROEMER

February 27, 1973

I N D E X

Deposition of Robert T. Roemer

Page

Examination by Mr. Hipple

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1 BE IT REMEMBERED that, pursuant to Notice and  
2 Subpoena, and on Tuesday, February 27, 1973, commencing at the  
3 hour of 10:25 O'clock a.m. thereof, at the offices of James L.  
4 Browning, Jr., United States Attorney, 450 Golden Gate Avenue,  
5 San Francisco, California, before me, PAUL SCHILLER, a Notary  
6 Public in and for the City and County of San Francisco, State  
7 of California, personally appeared

8 ROBERT T. ROWNER,

9 called as a witness by the defendant, who, having been by me  
10 first duly sworn, was thereupon examined and testified as  
11 hereinafter set forth.

12 --oOo--

13 STUART R. STILLMAN, Esquire, 200 Old Country Road,  
14 Garden City, New York 11530, appeared as counsel on behalf  
15 of the plaintiff; and

16 ROBERT J. HIPPLE, Esquire, Trial Attorney, Tax  
17 Division, Department of Justice, Washington, D. C. 20530,  
18 appeared as counsel on behalf of the defendant.

19 --oOo--

20 MR. STILLMAN: For the record, before we start the  
21 deposition, I object to questions asked that may be asked --  
22 and I have a continuing objection, just so I don't have to  
23 keep objecting -- with respect to questions that will involve  
24 facts and give of the years 1962 to 1966.

25 MR. HIPPLE: Okay.

1           It was stipulated that the said deposition shall  
2 be reported by PAUL SCHILLER, a certified shorthand reporter  
3 and disinterested person, and thereafter transcribed into  
4 typewriting, to be read to or by the said witness, who, after  
5 making such corrections therein as are necessary, will  
6 subscribe the same.

7           It was further stipulated that in the event the  
8 said deposition is not signed by the witness, reasonable  
9 opportunity having been had to do so, it may be used with the  
10 same force and effect as though it had been signed.

11           It was further stipulated that all objections  
12 made herein to questions propounded to the said witness shall  
13 be reserved by each of the parties until the time of trial,  
14 and except any objections as to the form of the questions  
15 propounded.

16           It was further stipulated that in the event the  
17 witness should refuse to answer any questions propounded by  
18 counsel, it shall be deemed that the notary public has instructed  
19 the witness to answer and that he still refuses so to do.

20                               --o-o-o--

21                               ROBERT T. POEMER,  
22 having been first duly sworn, testified as follows:

23                               EXAMINATION BY MR. HIPPLE

24                               MR. HIPPLE: O. Will you state your full name  
25 and address, please.

PAUL SCHILLER  
OFFICIAL REPORTER, U. S. DISTRICT COURT  
SAN FRANCISCO, CALIFORNIA

1 A. Robert Timothy Hunter, 385 Glenwood Avenue,  
2 Daly City, California.

3 Q. And your occupation?

4 A. District Manager.

5 Q. For Avis?

6 A. Yes, for Avis, at San Francisco Airport.

7 Q. How long have you been employed by Avis?

8 A. Five years, six years in March.

9 Q. Since '67?

10 A. '67.

11 Q. You just missed our period, '62 to '66.

12 What was your position when you first joined Avis?

13 A. I was a management trainee for a period of  
14 a month or two.

15 Q. And in any of your positions with Avis,  
16 have you become familiar with the car shuttling operation  
17 of Avis?

18 A. Well, from time to time we all become  
19 familiar with it. I was never involved in the handling of  
20 shuttlers as such.

21 Q. Will you describe that contact you have had  
22 with the shuttling operation?

23 A. When we are running tight on cars, I shuttle  
24 cars myself. I have on many occasions. Other than that, we  
25 are quite involved and interested when they are going to arrive

1 or when they are going to take cars away from us.

2 Q. At the time you have actually driven a car  
3 yourself, were you reimbursed in any way for driving?

4 A. No.

5 Q. Any expenses?

6 A. Bridge tolls.

7 Q. How was that handled?

8 A. Through petty cash.

9 Q. Cash at the time reimbursed?

10 A. At the end of the trip you fill out a petty  
11 cash slip and the receipt.

12 Q. To the best of your knowledge, will you  
13 describe the shuffling operation as run by Avis; we are  
14 talking specifically '62 to '66, but the point that you are  
15 familiar with, will you describe how the operation was.

16 MR. STEINMAN: Wait a minute. You mean what  
17 does he know about the years in issue?

18 MR. HIPPLE: He knows nothing. We are getting  
19 beyond the years in the suit to find out how the operation  
20 runs. From what Mr. Spidel says, I presume it is pretty much  
21 the same general operation, except for the method of payment.

22 THE WITNESS: Okay. I have been involved in the  
23 San Francisco Bay Area in my six years. The employees that  
24 we have, the greatest number of people that move cars are,  
25 of course, the service agents, the ones that wash and pre pare

1 the cars, take the cars on check-in, and turn them around and  
2 make them ready for the next rental.

3 When they are not doing this, we move cars from  
4 one location to another whenever we deem necessary.

5 Q. That is the service agent?

6 A. That is the service agent's job, and a good  
7 portion of his job is involved in shuttling cars, whether from  
8 one part of the airport to another, or from the airport to  
9 downtown, or vice versa.

10 We also have shuttlers, company shuttlers, that  
11 do nothing but move cars from Point A to Point B. These people  
12 are paid weekly.

13 Q. Do you know if these people work a full  
14 40-hour week, eight hours a day, for Avis?

15 A. Yes, the ones that we have now do, yes.

16 Q. Let's go as far back as you can remember?

17 A. No, we would hire shuttlers on a one-day,  
18 two-day, three-day basis.

19 Q. Do you know the basis on which they are hired?

20 A. Yes. We simply call the union and they send  
21 us to where we designate them.

22 Q. Did you ever see the union contract?

23 A. Yes.

24 Q. Are you familiar generally with its terms?

25 A. I'm familiar with the contract of service

1 agents. The shuttlers are covered by the same union and  
2 in the service agent contract I can recall nothing that covers  
3 shaggers as such.

4 Q. Do you know if it is the same contract  
5 covering both or different parts of it?

6 A. I don't think, I have never seen a contract  
7 covering shuttlers.

8 Q. Do you know if there is one?

9 A. I don't think so, no. I think there is a  
10 letter of agreement stating the wages and what we would  
11 guarantee X amount of hours, four hours a day, I think, to the  
12 shuttler who was called in.

13 Q. Do you know if there was a minimum number of  
14 individuals guaranteed?

15 A. No.

16 Q. You don't know or there was not?

17 A. No, there was no minimum number of individuals.

18 Q. You could call one guy, but you had to guarantee  
19 him four hours at least?

20 A. That is right.

21 Q. Do you know what the hourly rate was at that  
22 time, in '67, as soon as you knew about it?

23 A. No, I don't.

24 Q. Do you know if it was the same hourly rate  
25 as the service agents?



1 A. No, it was somewhat less.

2 Q. Do you recall any documents or papers of any  
3 kind that a shuttler had when he moved a car from downtown to  
4 the airport or vice versa, either a contract or some type of  
5 transfer documents?

6 A. Yes. We have two documents, one is a  
7 non-revenue ticket and the other is a vehicle transfer ticket,  
8 and for the most part they would use non-revenue tickets.

9 Q. Would you describe the two documents you  
10 mentioned, the transfer ticket and the non-revenue?

11 A. Yes. There are two documents that account  
12 for mileage in the car renting business. Theoretically all  
13 cars moved, every mile would gain revenue. These documents  
14 account for movement of cars or the mileage on cars that are  
15 moved without revenue being derived from it.

16 Q. Let me show you a document. We had this  
17 marked previously as Defendant's Exhibit A. We might as well  
18 use this number for this one. Did you ever see one of those  
19 before (indicating)?

20 A. No, I have never seen one like this. I have  
21 seen something like it, but I think this is before my time.

22 Q. The one that you have seen like that, the  
23 transfer contract, do you recall how it differs from that one,  
24 the basic information?

25 A. I think it is somewhat the same.

1 Q. Was this one of the two documents you were  
2 talking about, the transfer contract?

3 A. Vehicle transfer contract, yes.

4 Q. Do you know whether a document like this was  
5 used for the shuttlers Avis used in San Francisco?

6 A. Yes. From time to time.

7 Q. How about the service agents?

8 A. Same kind. Well, I take that back. Our  
9 shuttlers for the most part would use the non-revenue ticket  
10 rather than this. But, of course, we would run out of one  
11 and then we would use the other, but primarily we would use  
12 the M.R.T.

13 Q. Was there any set rules whether you would  
14 use that document or a non-revenue ticket, or vice versa?

15 A. Moving cars within the area, my employees  
16 used primarily the non-revenue ticket. This we used a lot for  
17 moving cars from one city to another by a non-employee, but  
18 when we are out of one, we use them interchangeably.

19 Q. A non-employee, you mean someone that came  
20 from the union or independent of the union?

21 A. Someone we would give a car to. We have a  
22 car in San Francisco and we need it in Los Angeles, we would  
23 give him a free ride to go to Los Angeles.

24 Q. How would you contact that individual?

25 A. By word of mouth. He would come to us.

1 reasons?

2 A. No, on this contract here we normally limit  
3 it to one day and 500 miles.

4 Q. Personal reasons, I'm talking about carrying  
5 a friend down to Los Angeles or furniture?

6 A. It is done, I think there might be a provision  
7 in there.

8 Q. That you can't?

9 A. That says you can't, but it is done.

10 Q. But do you recall any specific instructions  
11 given to them on what they can or can't do with the car?

12 MR. STILLMAN: Who are we talking about now?

13 MR. HIPPLE: The people who walk in and say,  
14 "I want to drop a car in Los Angeles," or however. I'm trying  
15 to find out how they are contacted or what they do.

16 Q. You don't recall any specific instructions?

17 A. No. On the document in most cases it limits  
18 it to one day and 100 miles to get the car to Los Angeles.

19 Q. I see. This was usually getting a car from  
20 here to someplace else?

21 A. Or vice versa.

22 Q. How do you contact someone if you got a car  
23 in Los Angeles and you want to get it back here? Do you  
24 contact somebody here to have them do that, or somebody contact  
25 you?

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Q. Would he come to the airport or downtown?

A. Either, it could happen anywhere.

Q. Do you recall how frequently this happened, once a week, once a month?

A. Right now I would say it happens two or three times a week. People would come and take a car to Los Angeles. Los Angeles might call us, they know they have some cars here, they say, "Give this man a car to return to us."

Q. Do you know how these people are compensated, if they are?

A. They are not compensated.

Q. They just take the car?

A. In some cases they will reimburse them, if they want their cars back bad enough, they will pay the gas to get them back.

Q. It is just a free ride to go to Los Angeles?

A. Yes, otherwise they would have to rent a car, or it would be an airline employee who would want to drive.

Q. How about reimbursement for expenses, tolls?

A. In some cases.

Q. Not all of them?

A. No.

Q. Any individuals who do it on that basis, the non-employees we are talking about other than through the union contract, do you know if they could use the car for personal

1 A. To get one of our cars back here?

2 Q. Yes.

3 A. Someone might be flying to Los Angeles and  
4 want a ride back, either way, it happens in both cases.

5 Q. Do you have any list or information how to  
6 find people like this?

7 A. No.

8 Q. You got a bunch of cars in Los Angeles and  
9 need them back in a hurry; is there anything you can do to  
10 get them back?

11 A. Word travels pretty fast. You let the  
12 airline employees know and they will get them back.

13 Q. Have you ever done that, call on the airlines  
14 when you need some help?

15 A. Yes.

16 Q. Has that kind of procedure been going on as  
17 long as you have been there?

18 A. Yes.

19 Q. You wouldn't have any knowledge if it was  
20 going on before that?

21 A. No, I wouldn't. I would assume that it did.

22 Q. When somebody picks up a car here and takes  
23 it back to Los Angeles, something like that, do you know  
24 whether or not they are covered by insurance, insurance paid  
25 for by Avis?

1                   A.    Yes, public liability and property damage,  
2 I believe they are.

3                   Q.    Do they have to pay anything for that?

4                   A.    No.

5                   Q.    Or is this covered automatically?

6                   A.    Yes.

7                   Q.    Are the union people, the driver-shuttlers  
8 covered by insurance policies?

9                   A.    Yes, to my knowledge they are.

10                  Q.    Is that the same as the service agents or  
11 anyone else?

12                  A.    Yes.

13                  Q.    Do you know whether or not the union people  
14 are covered by any kind of fringe benefits, Avis fringe  
15 benefits?

16                  A.    The chuggers are not covered by the same  
17 amount of fringe benefits as our regular employees are, as our  
18 service agents are.

19                  Q.    Do they get the same type of benefits, except  
20 for the amount?

21                  A.    No, I think they are classified as a temporary  
22 employee. They are not involved in a pension plan as our  
23 service agents are, hospitalization and all the rest.

24                  Q.    They don't get any of that?

25                  A.    I have to back off on hospitalization. The



1 pension plan they are not involved in. I don't know about  
2 hospitalization.

3 Q. To the extent they are covered by any benefits,  
4 do they have to work a minimum of hours a week or a minimum  
5 total number of hours before they are covered?

6 A. Well, that is where I am in the dark. I am  
7 hazy.

8 Q. Do you know whether this is covered in the  
9 Letter of Agreement with the union?

10 A. It well could be.

11 Q. Do you know where copies of that agreement  
12 would be located?

13 A. I would guess at the zone office in  
14 Burlingame.

15 Q. Do you know whether Avis maintained any kind  
16 of personal records for the shuttles that were sent over by  
17 the union, social security number, home address, phone number,  
18 that sort of thing?

19 A. Yes.

20 Q. Was there a regular form they had to fill out?

21 A. The shaggers that we have now, yes, they fill  
22 out an application for employment.

23 Q. This is the first time they do it?

24 A. The first time they do it, but the people we  
25 have now, and they number 15, 20 people, although they are

1 classified as temporary employees, we look on them as  
2 permanent employees. We have had some as long as three or  
3 four years in this temporary capacity.

4 Q. Beginning in '67, were they also required to  
5 fill out an application form, as you recall?

6 A. Yes, as I recall.

7 Q. Do you recall what kind of information the  
8 form required?

9 A. Standard information of past employment,  
10 address.

11 Q. Was it the same form that was used for all  
12 employees?

13 A. Yes.

14 Q. Were the driver's licenses of the individual  
15 checked that were sent over from the union?

16 A. Yes.

17 Q. Everytime they came, or did you get to know  
18 certain people.

19 A. You got to know certain people. We had new  
20 people coming in, we would check their driver's license the  
21 first time they came in.

22 Q. How about their driving record, speeding  
23 tickets, accidents, things like that?

24 A. Back in '67, no. The present people, yes.  
25 We checked their driving records.

1 Q. Do you recall any kind of interview or  
2 meeting with a new shuttler when he first came over to anybody  
3 at Avis, or would you just take whoever the union sent?

4 A. I was involved, as I remember, in '67 and '68  
5 working at downtown San Francisco, Post Street, and we would  
6 only get two men a week. They would come in on a Friday,  
7 because we had cars to move within the downtown area, and  
8 if there was any interviewing done, it was done by the garage  
9 foreman. He pretty near would just accept the people who came,  
10 checked the driver's licenses, and would fill out the forms.

11 Q. You don't recall whether there was any set  
12 procedure to follow when a new man showed up?

13 A. No.

14 Q. Do you recall how the shuttlers sent over  
15 by the union were paid?

16 A. Yes. They were paid, as I recall, on that  
17 Friday afternoon. Again, I am talking about the one incident  
18 we used to use at Post Street, they were paid that afternoon  
19 before going home.

20 Q. Was that for the week?

21 A. They only worked the one day, just Friday.  
22 That was just two of them.

23 Q. Were they paid on an hourly basis?

24 A. Yes.

25 Q. Do you know whether or not withholding and

1 social security and that sort of thing was taken out?

2 A. Yes, it was.

3 Q. Do you know the procedure that was followed  
4 in computing the amount of that?

5 A. Yes, we would go to the IRS withholding  
6 book and deduct that much in withholding and FICA and State  
7 Disability.

8 Q. Do you recall if the union dues were deducted  
9 also?

10 A. No, they were not.

11 Q. Did the check they got at the end of the day  
12 was it check or cash?

13 A. Check.

14 Q. Did that include any expenses they had, any  
15 tolls, any gas and oil?

16 A. No. If they had any expenses during the day,  
17 they had those reimbursed by petty cash.

18 Q. Do you recall whether there was any kind of  
19 number or symbol or any identification mark on the pay cash  
20 slips they signed, something to identify it, specifically as  
21 having to do with the shuttling operation?

22 A. It just stated that "Bridge tolls for cars  
23 moved," or "Shuttler's Bridge tolls," with the receipt attached.

24 Q. This was written in on the form itself?

25 A. Yes, right on the face of it.

1 Q. Do you recall if there was any kind of an  
2 account number of designation for shuttling as such for  
3 accounting purposes?

4 A. Yes, Account 423.

5 Q. Has it been that number as long as you can  
6 remember?

7 A. Yes, as long as I have been there.

8 Q. Do you recall any account number or identifyin  
9 number, a four-digit number having to do with the shuttling  
10 operation?

11 A. No.

12 Q. Do you know what would happen to a speeding  
13 ticket if a shuttler got one?

14 A. Well, I would imagine he would try and not  
15 advertise the fact that he got one.

16 Q. Who paid it?

17 A. Oh, he would be responsible for his own  
18 ticket.

19 Q. Was this covered with them, any new shuttler  
20 that came in?

21 A. Again, I would have to claim ignorance.  
22 I think it might have on occasion been but I doubt it. We  
23 were more interested in getting the cars to where we could  
24 use them the most.

25 Q. Were they given any instructions on what

1 to do if the car broke down or if they had an accident?

2 A. I don't believe so. I would assume that  
3 they would know that they would call back to the station from  
4 where they left.

5 Q. Do you know if the people who took cars  
6 between the cities -- we are talking about airline people or  
7 others -- were given any instructions like that, what to do  
8 if the car broke down, an accident or something like that?

9 A. If they had asked, I would imagine they would  
10 have been told to call the nearest Avis station.

11 Q. You don't remember any specific instructions  
12 given to them what to do?

13 A. No.

14 Q. Were they told who to see when they got to  
15 their destination, the people driving between the different  
16 cities?

17 A. No, on the form, the vehicle transport  
18 ticket, it would say, "Car to be delivered a certain date  
19 and a certain location."

20 Q. Was there any checking procedure when they  
21 got there?

22 A. Time would be stamped in and the mileage  
23 noted.

24 Q. Was the mileage checked for the cars being  
25 handled by the shuttlers by the union?



Q. Do you know whether Avis ever advertised for shuttlers, newspapers, or something like that?

Q. Do you recall if the shuttlers were given anything besides the keys and registration to the car, and whatever kind of transfer document it was when they got the car?

Q. Now about the people who went between the cities, did they get anything different?

Q. Do you recall any situations where the union sent somebody over and you or somebody else at Avis would refuse them to allow to drive for some reason?

MR. HIPPLE: I believe we have just about exhausted this.

ROBERT T. ROEMER

\* \* \* \*

PAUL SCHILLER  
OFFICIAL REPORTER, U. S. DISTRICT COURT  
SAN FRANCISCO, CALIFORNIA

IN THE UNITED STATES DISTRICT COURT  
FOR THE EASTERN DISTRICT OF NEW YORK

AVIS RENT-A-CAR SYSTEMS, INC., )  
 )  
 Plaintiff, )  
 ) Civil Action No.  
 vs. ) 70-C-70  
 )  
 UNITED STATES OF AMERICA, ) [Filed April 9, 1973]  
 )  
 Defendant. )

Deposition of GUISSPE TALARICO  
 Tuesday, February 20, 1973

The deposition of GUISSPE TALARICO, called as a witness  
 by the defendant for examination, pursuant to the  
 Federal Rules of Civil Procedure, taken before me, the  
 undersigned, Darla J. Carabotta, a Notary Public in and  
 for the State of Ohio, pursuant to notice, taken at  
 Room 504, U. S. Court and Custom House, Public Square,  
 Cleveland, Ohio, at 3:00 o'clock p.m., on the day and  
 date above set forth.

## 1 APPEARANCES:

2 On behalf of the Plaintiff:

3 Gilbert, Segall &amp; Young:

4 Robert Layton, Esq.

5 405 Park Avenue  
6 New York 22, New York

7 On behalf of the Defendant:

8 Robert J. Hipple,  
9 Trial Attorney  
10 Tax Division  
11 Department of Justice  
12 Washington, D. C. 20530

13 - - -

14 MR. HIPPLE: Will you waive  
15 signature?

16 MR. LAYTON: Yes.

17 MR. HIPPLE: And objections as to  
18 form only?19 MR. LAYTON: That is right.  
20 And we will waive filing, also.

21 MR. HIPPLE: Right.

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GUISSEPE TALARICO

a witness called by the defendant, pursuant to the Federal Rules of Civil Procedure, having been first duly sworn, as hereinafter certified, was deposed and said as follows:

## EXAMINATION

BY MR. HIPPLE:

Q Mr. Talarico, would you give us your full name and current address.

A Guissepe, G-u-i-s-s-e-p-e, Talarico, T-a-l-a-r-i-c-o. 5496 Dalewood, D-a-l-e-w-o-o-d, Avenue, Maple Heights, Ohio 44137.

Q Your current occupation?

A I am a firefighter. I am also employed as a rental manager for Pepsico Truck Rental.

Q Your occupation in 1962 through 1966 was what?

A Either a rental agent or rental manager for Avis Truck Rental.

Q When did you first start working for Avis?

A I started working when Avis was acquired from U-Drive-It. I previously worked for U-Drive-It.

Avis acquired U-Drive-It and I started there in 1957.

Q Did you ever act as a car shuttler for Avis?

A No. I shuttled -- let's put it this way,

1 I shuttled trucks but never on a vehicle transfer  
2 contract; since I was a salaried employee, I felt that  
3 due to the compensation end of this thing, I don't touch  
4 those vehicle transfer contracts.

5 Q We'll get to that.

6 Were you familiar with what the car shuttlers or  
7 truck shuttlers did?

8 A Yes.

9 Q Did you deal with them in your particular position?

10 A Yes.

11 Q What was that position in 1962?

12 A I was a rental agent.

13 Q In Cleveland?

14 A In Cleveland.

15 Q How long have you been a rental agent?

16 A I remained for a rental agent about another two  
17 years.

18 Q From that point?

19 A I was a rental manager until I left Avis and went  
20 to Pepsico.

21 Q Would you describe, the best you can, what the  
22 car shuttlers or truck shuttlers did?

23 A They're non-salaried employees. Under normal  
24 circumstances, they are not employed by the company that  
25 uses them. They are free agents acting in their own

1 interest, for a fee, shuttling equipment between cities,  
2 or within a city, for a stipulated fee, generally  
3 10 cents a mile plus expenses, like turnpike fees and  
4 that.

5 Q Do you know how many people were contacted by Avis  
6 to do this?

7 A Generally, they are people that contact you.  
8 A lot of people come in off the street and ask you if  
9 you need truck shuttlers, most of the time -- a couple  
10 people do this continually.

11 Q Was it part of your job, as a rental agent, to  
12 contact these people if you needed them?

13 A Yes. We generally got in touch with them, if we  
14 needed a truck shuttled or any other piece of equipment  
15 moved from one place to another.

16 Q Do you have a list of names or addresses, or any-  
17 thing else, of those people?

18 A Generally, phone numbers, not addresses.

19 Q When someone came in to shuttle a car or truck,  
20 was there any kind of application form or personal  
21 information form that they had to fill out?

22 A For employment?

23 Q Yes.

24 A No.

25 Q Will you examine what has been previously marked



1 as Defendant's Exhibit A.

2 A (Witness examines document.)

3 Q Tell us what it is, or if you have seen something  
4 similar to it?

5 A Yes. This is a Vehicle Transfer contract used  
6 by employees that aren't employed by Avis.

7 Q Do you know the purpose of that?

8 A Yes. In essence, what this is saying is that the  
9 shuttler takes the vehicle from one city, or to whatever  
10 point, from one place to another place. He is a non-  
11 salaried employee, he is not on the clock, he does not  
12 work for Avis.

13 He assumes all responsibility for this piece of  
14 equipment to be delivered in the same shape he got it in,  
15 for the stipulated fee; that is generally entered on  
16 this thing.

17 Q Do you recall yourself ever signing one of these?

18 A Yes, I have signed a few as a supervisor.

19 Q Did you ever sign one as a shuttler?

20 A Not to my knowledge, not that I remember.

21 Q Did you ever shuttle a car or truck without sign-  
22 ing one?

23 A In a supervisory capacity, yes, I did; but I did  
24 that on the clock and I was paid a salary by Avis, or  
25 by Pepsico, or whoever I was working for, to do specific

1 things; and from time to time, this is included in the  
2 specific things.

3 Q Did you ever explain the purpose of the function  
4 of a vehicle contract?

5 A To a shuttler?

6 Q Yes.

7 A Yes, I did.

8 Q What would you normally tell them?

9 A When they sign this contract, they have absolutely  
10 no recourse back to Avis or the company that they are  
11 shuttling for, because this actually takes all the  
12 rights away from them to come back; they are not  
13 covered under any type of insurance, they are covered  
14 for the equipment they are driving, but so far as  
15 Workmen's Compensation or anything else like that, they  
16 are not covered under that contract.

17 They are acting as an outside agent.

18 Q At the time you contacted a shuttler or a shuttler  
19 came in to shuttle a car or truck, did you ask him for  
20 his Social Security number?

21 A No.

22 Q Did you ask to see a driver's license?

23 A Yes.

24 Q Did you ask him about his driving record?

25 A No, not normally, no.

1 Q How about home address or work address and phone  
2 number?

3 A Generally, just the phone number.

4 Q Was there a specific place you kept phone numbers?

5 A We kept them in a flip-up.

6 Q Did you ask them about any references?

7 A Not normally, no.

8 Q His personal insurance coverage, auto insurance  
9 coverage?

10 A No.

11 Q Any kind of interview at all, when somebody first  
12 came in that you never saw before?

13 A No.

14 Q Would you describe, as specifically as you can,  
15 the general procedure that was followed when shuttling  
16 a truck or car, assuming the procedure was pretty much  
17 the same from the time a person was contacted to move a  
18 car, or instructed, to the time where he got where he was  
19 supposed to take it?

20 A Usually, we call them on the phone, sometimes  
21 they come in. Generally what happens, when I worked for  
22 Avis, is we had a couple guys that seemed to be always  
23 around, you got to know them. Generally, we used the  
24 people we knew, rather than somebody we didn't know.

25 What would happen, if you would call them up,

1 they would come down and fill out the Vehicle Transfer  
2 contract. If they had to get money to take a bus to  
3 some other destination where there was a truck sitting  
4 or car, whatever you had to have shuttled, we gave them  
5 the money to make sure they got on the bus.

6 We made sure they had the telephone number to call  
7 if they had any problems. They would generally go  
8 down and pick up the truck or car and come back. They  
9 were paid what was coming to them.

10 You signed a Petty Cash slip, and that would be  
11 the termination of whatever business you had with them.

12 Q How were the shuttlers paid? Cash?

13 A Generally cash.

14 Q Were there any circumstances where a check was  
15 released?

16 A Normally, you would get a check. At Avis you  
17 would pay -- they would issue a check to the rental  
18 manager, and the rental manager would pay them.

19 Q Was the particular shuttler paid cash at the end  
20 of each job?

21 A Each job wasn't a weekly basis, you paid them on  
22 demand. In other words, when he finished his job,  
23 he was paid automatically right then and there.

24 Q Was the amount of compensation fixed?

25 A 10 cents a mile plus expenses. Normally, say if

1 you send somebody from here to Toledo to pick up a  
2 truck, you paid them the bus fare to get to Toledo and  
3 they would get paid 10 cents a mile from Toledo to  
4 Cleveland. In other words, from Cleveland to Toledo  
5 is 120 miles, he would get \$12.

6 Q Was he given any specific route to follow?

7 A No, whatever route he wanted to take.

8 Q How about a specific time in which to get the  
9 truck back?

10 A Generally, some people drive slower than others,  
11 there was no specific set amount of time. But anything  
12 reasonable.

13 In other words, if he went to Toledo, the normal  
14 time in a car is two hours; in a truck, maybe three  
15 and a half. So you would figure he would be back in  
16 about five hours, if he was a slow driver.

17 Q Do you recall any circumstances when someone took  
18 substantially longer than you expected?

19 A A few times, somebody made an unexpected stop,  
20 maybe they stopped to see a friend or something.

21 Q Did you say anything about it? Did you say any-  
22 thing?

23 A Just asked them where they were or what they did.

24 Q Were they allowed to use the car or truck for  
25 personal reasons?

1 A. No. .

2 Q Did you ever have situations where somebody did?

3 A Not knowingly. We had situations, I would assume,  
4 from time to time, where they wouldn't tell you, where  
5 they stopped to see their girl friend on the way back or  
6 something.

7 Q How about picking somebody up, a hitchhiker?

8 A Normally, they are not to pick somebody up or have  
9 somebody in the car or truck with them; strictly them,  
10 period.

11 Q Did you explain this to them before?

12 A Yes.

13 Q Was there a set procedure you were supposed to  
14 follow, set of rules provided by Avis?

15 A Most of the rules you followed were the ones you  
16 build up in time.

17 Q No rule book or anything like that?

18 A No, no rule book.

19 At the time I worked for Avis, until 1971, there  
20 was never any rules specifically set up for shuttlers.

21 Q Do you recall any other instructions or information  
22 given to a shuttler the first time he drove, or at any  
23 time?

24 A Not anything extra special, no.

25 Q Did you explain to them what happened if they got



1 a speeding ticket?

2 A They are responsible for it.

3 Q Did you tell them that?

4 A Yes.

5 Q Any other kind of ticket?

6 A Any ticket that wasn't to do -- if you got a  
7 ticket say for a tail light out, something to do with  
8 defective equipment which we were responsible for and  
9 you get the ticket -- if he got the ticket for speeding,  
10 that was his red wagon, he would assume that respon-  
11 sibility himself.

12 Q Did you explain any procedure to follow in case  
13 of breakdown?

14 A Oh, yes. We give them a telephone number, we tell  
15 them to call collect in the event they had any trouble  
16 on the road. The same thing would happen in case of  
17 an accident.

18 Q Was it just a phone number to call in case of an  
19 accident?

20 A It would be the phone number of the city that is  
21 actually using the shuttler; in other words, if I was  
22 in Cleveland, he would call me and, since we own the  
23 equipment, I would tell him what to do.

24 Q We covered this previously, but was the driver  
25 covered by insurance while he was driving? Avis' insur-  
ance?

- 1 A No.
- 2 Q How about the car itself?
- 3 A The car would be covered, yes.
- 4 Q So they are not covered for personal injuries?
- 5 A No. If they are hurt or injured, they are with-
- 6 out insurance.
- 7 Q Did you explain that coverage or lack of coverage
- 8 to them?
- 9 A Yes, I told them that the car was covered but
- 10 they are not.
- 11 Q Were Social Security or Unemployment taxes,
- 12 Withholding taxes, taken out of what you paid them?
- 13 A Nothing.
- 14 Q Was anything said to them about these payroll
- 15 deductions?
- 16 A We never got into a conversation.
- 17 Q It was not made a point of explaining that they
- 18 were taken out or were not taken out?
- 19 A No. I did tell a couple they would be better
- 20 off if they reported part of their income so they would
- 21 be covered under Social Security when they get older,
- 22 but this is as a self-employed person.
- 23 Q Do you have names of anybody else that shuttled
- 24 the cars during that period of time?
- 25 A When I was there?

1 Q '62 to '66, like that.

2 A That is pretty rough.

3 Q Do you know of anybody who was shuttling cars  
4 during the period, who was a full-time employee of  
5 Avis, such as a mechanic?

6 A Such as myself, you mean?

7 Q Such as yourself, that was shuttling cars.

8 A Some of the people that worked there from time to  
9 time went off the clock to make extra money.

10 Q Those would be on other than regular --

11 A Other than regular duty. Right.

12 Q Do you know whether or not Avis ever put any ads  
13 in newspapers or something like that?

14 A I have never seen an ad for a shuttler, no.

15 Most of your people take jobs as shuttlers or,  
16 generally, people between employment and they hear,  
17 mostly by word of mouth, how you pick up a shuttler.

18 Q When a person came in to shuttle a car, do you  
19 recall what he was given -- that he was given anything  
20 besides the keys and registration?

21 A The Vehicle Transfer contract.

22 Q Anything else that he was given at the time?

23 A If he had the money coming, if he needed to take  
24 a truck somewhere to drop it and there was another form  
25 of transportation he had to take back, he would get that,

1 unless there was another truck at the other end. We  
2 gave him the money. He may have to buy fuel if it's  
3 a tractor.

4 You mean, anything to do with any written  
5 information, as far as that is concerned?

6 Q Yes.

7 A No.

8 Q Were these people covered by any kind of health  
9 or accident insurance, Workmen's Compensation?

10 A No.

11 Q Any other kind of fringe benefits?

12 A No.

13 Q Do you know of anybody who filed a claim for any  
14 of those things as a shuttler?

15 A Not since -- to my knowledge, I have never heard  
16 of anybody filing a claim.

17 Q Did anyone who shuttled frequently for Avis get  
18 any preference over anybody that didn't do it very often?

19 A We would normally pick the person that is more  
20 dependable. In other words, if you had a fellow that  
21 say was in his fifties and he didn't have a job, you  
22 could always count on to call him and he would come down.

23 In other words, -- like everything else -- you  
24 always form a personal like or dislike for somebody,  
25 it's human nature.

1 Q Do you know whether any of these shuttlers were  
2 required to share part of their fee or compensation with  
3 anybody else?

4 A Not that I know of, no.

5 Q Was there any kind of foreman or head shuttler?

6 A Not in the truck division, no, not that I know of.

7 Q Do you know of any in the car division?

8 A I didn't get involved in cars that much, just  
9 trucks.

10 Q Do you know if the procedure in the car division  
11 was substantially the same?

12 A I would imagine it was just about the same, with  
13 some deviation in the nature of the job they do. There  
14 may be a little difference between truck shuttlers and  
15 car shuttlers.

16 Q Were the shuttlers given any kind of identification,  
17 badge or anything to identify them as shuttlers?

18 A No.

19 Q Would you describe any records that were main-  
20 tained by Avis to show the dates and amounts and the  
21 purpose of payments to the shuttlers, besides the --

22 A Petty Cash tickets.

23 Q Would you describe that?

24 A A Petty Cash ticket, the voucher for any amount  
25 of money dispensed by your people, in your city, to

1 cover the normal operations. Like they give it out  
2 for gasoline, or when you buy gasoline on the road.  
3 They also pay the shuttler from Petty Cash and have him  
4 sign the voucher that he received the money, so you in  
5 turn would be reimbursed the money for your Petty Cash  
6 fund that your city is operating under.

7 Q It is not a specific form for shuttlers?

8 A No, nothing specific.

9 Q Was it a printed form?

10 A Yes, it is a printed Petty Cash form. It says  
11 "Avis" on the top and it goes through why you paid the  
12 money and the unit number that he shuttled.

13 Q The unit number, was that a two or three or four-  
14 digit number?

15 A Well, when I first started there were three;  
16 now they are up to six.

17 Q Six-unit unumbers?

18 A Six-unit numbers, seven.

19 Q Do you happen to know how many digit numbers were  
20 in the car division?

21 A Six, too.

22 Q During that period of time?

23 A During the time that I could go back to, yes,  
24 I would say since 1964.

25 Q The shuttler signed that receipt?



1 A Right. He signed the Petty Cash receipt for  
2 the money. 1

3 Q Was there any other kind of identification or  
4 number on it to identify the particular receipt?

5 A Everything is broken down into codes. In other  
6 words, a shuttler -- I don't exactly remember any more  
7 of what the shuttling number for Avis would be.

8 Everything is broken down into a code. In other  
9 words, you use code numbers like 4250, or 4440, for  
10 certain things that your company does, so they can code  
11 it to the right accounts when they do their budgets and  
12 everything.

13 So much is allocated for each account, and you  
14 would go down the line and pick out the shuttling and  
15 gasoline, gas you pay on the road and things like that.

16 Q Is this number written on the Petty Cash receipt?

17 A Oh, yes. It has to be.

18 Q While you were with the truck division, was any  
19 individual who had shuttled in the past not allowed to  
20 do it again for any reason?

21 A I don't remember that, offhand, really, I couldn't  
22 tell you.

23 I would imagine, from time to time somebody did  
24 something wrong or took too much time to deliver the  
25 truck, or something, so you didn't hire him. You really

1 can't fire him, so you just don't use him any more.

2 In other words, if he calls up and wants to  
3 shuttle, after about four or five times you say, "I'm  
4 sorry, I don't have anything," that is the end of the  
5 contract between you and him, if you had one even  
6 verbally.

7 Q Was the need for shuttlers a regular thing?  
8 Was there a peak at certain times?

9 A It varies. In other words, it all depends on  
10 what type operation you are entering into. A lot of  
11 times you have shuttlers when you have a great amount  
12 of movement of trucks.

13 When I worked for Avis, we used to be in the one-  
14 way business more than we are today; due to the fact  
15 Avis uses U-Haul now, actually, U-Haul, most of your  
16 trucks there are on a one-way basis.

17 It would come from U-Haul and they would provide  
18 their own shuttlers in those instances; that knocked  
19 out part of that, unless you have an operation where  
20 you lease some of the trucks and say we'll put "X"  
21 amount of dollars in your contract, and we would deliver  
22 the truck to you.

23 This doesn't say you are going to use a shuttler  
24 for this; you could use an hourly employee, due to the  
25 fact this is something you sold in your lease agreement

1 to a customer.

2 Q If an hourly or regular employee did this, was he  
3 paid anything extra for shuttling the car?

4 A Most of the time, if you use a company employee,  
5 you would try to pay him on the clock.

6 Q If he was on the clock, he was not paid anything  
7 extra?

8 A Sure. He is paid everything over 40 hours time  
9 and a half. If you go on Sunday, it would be double  
10 time. It all depends on what their union contracts say.

11 Q If he did it during the regular working hours?

12 A That is part of his -- in a contract with a union,  
13 specific duties are spelled out. In some contracts  
14 this may have been spelled out, that they are used as  
15 shuttlers.

16 In other words, the terminology of the shuttler  
17 is different; they call them "runners, shuttlers,"  
18 they got so many names -- whatever you want to call them;  
19 whatever area of the country you are located in, it's a  
20 different name.

21 So long as he is an hourly employee of the company  
22 and you send him on the clock, he is covered; you are  
23 paying his Social Security, you are paying his Workmen's  
24 Compensation. This is actually his compensation, he is  
25 being compensated, he is being paid by the company his

1 regular amount of money, he<sup>160</sup> being paid hourly. [21]

2 Q Do you recall any specific instance, yourself,  
3 when you were paid as a shuttler rather than as a  
4 salaried or hourly employee?

5 A No, not me.

6 I hate to drive trucks, truthfully, and I think  
7 too much of my wife or children to sign that contract;  
8 because, you know, if anything would happen to me and  
9 I am not covered by insurance or Workmen's Compensation,  
10 I have three children and a wife, and -- no way.

11 MR. HIPPLE: That is all I have.

12 MR. LAYTON: Just one question.

13 EXAMINATION

14 BY MR. LAYTON:

15  
16 Q Is it accurate to say that there was nothing to  
17 compel particular people to show up to shuttle if the  
18 weather was bad, if it was snowing or raining?

19 A There was no compulsion on anybody's part at all.  
20 Under certain instances, they would come to you, rather  
21 than you go to them.

22 Q If it was a bad day --

23 A If it was raining or snowing hard, they wouldn't  
24 show up; sometimes they wouldn't let anybody move  
25 because of the icy condition.

MR. LAYTON: No further questions.  
- - -

IN THE UNITED STATES DISTRICT COURT  
FOR THE EASTERN DISTRICT OF NEW YORK

- - -

AVIS RENT-A-CAR SYSTEMS, INC., )

Plaintiff, )

vs. )

UNITED STATES OF AMERICA, )

Defendant. )

Civil Action  
No. 70-C-70

[Filed April 9, 1973]

- - -

Deposition of WILLIE CHAMBLISS

Tuesday, February 20, 1973

- - -

The deposition of WILLIE CHAMBLISS, called as a witness by the defendant for examination, pursuant to the Federal Rules of Civil Procedure, taken before me, the undersigned, Darla J. Carabotta, a Notary Public in and for the State of Ohio, pursuant to notice, taken at Room 504, U. S. Court and Custom House, Public Square, Cleveland, Ohio, at 3:30 o'clock p.m., on the day and date above set forth.

- - -

## 1 APPEARANCES:

2 On behalf of the Plaintiff:

3 Gilbert, Segall &amp; Young:

4 Robert Layton, Esq.

5 405 Park Avenue  
6 New York 22, New York

7 On behalf of the Defendant:

8 Robert J. Hipple,  
9 Trial Attorney  
10 Tax Division  
11 Department of Justice  
12 Washington, D. C. 20530

13 - - -

14 MR. HIPPLE: Will you waive  
15 signature?

16 MR. LAYTON: Yes.

17 MR. HIPPLE: And objections as to  
18 form only.19 MR. LAYTON: That is right.  
20 We will waive filing, also.

21 MR. HIPPLE: Right.

22 - - -  
23  
24  
25



## WILLIE CHAMBLISS

a witness called by the defendant for examination,  
pursuant to the Federal Rules of Civil Procedure,  
having been first duly sworn, as hereinafter certified,  
was deposed and said as follows:

## EXAMINATION

BY MR. HIPPLE:

Q Mr. Chambliss, would you state your full name and  
address, please.

A Willie Chambliss.

Q Your address?

A 9817 Mt. Auburn.

Q Is that in Cleveland?

A Yes.

Q Your current occupation?

A Garage man.

Q For what company?

A For Avis.

Q And your occupation, in the period of 1962 to  
1966, the best you can recall?

A At Avis.

Q What were you doing, what was your job then, full-  
time?

A You mean what was I doing before I started working  
at Avis?

1 Q Were you working at Avis in 1962?

2 A Yes.

3 Q Full-time, the same place?

4 A Yes.

5 Q Did you ever work as a car shuttler, as a car  
6 shuttler for Avis?

7 A No.

8 Q Did you ever move a car, when you were working for  
9 Avis, as a shuttler at all from one place to another?

10 A I move cars from the airport, but there was no  
11 driver then and I was on the clock then.

12 Q Did you ever do it in a situation when you were  
13 not on the clock?

14 A No.

15 Q Not even one time that you can recall?

16 A One time, I think I went to Akron, once.

17 Q Were you familiar with the procedure of how these  
18 car shuttlers worked, what they did?

19 A No, I wasn't, because I worked that day and I got  
20 off from work, and they had a vehicle to go to Akron,  
21 they asked me to take it over.

22 Q At the time you went to Akron, was that driving  
23 a car from here to Akron, or from Akron back?

24 A I drove a truck over there and come back on a bus.

25 Q Did you have to sign any kind of contract or

1 agreement when you went over there?

2 A No, I just signed -- they had an agreement that  
3 I signed, that I was taking the truck.

4 Q Let me show you what has been marked previously  
5 as Exhibit A. Was it something like that?

6 A Yes.

7 Q Did you sign it before you left?

8 A Yes.

9 Q Before you left Cleveland?

10 A Yes.

11 Q Did you have to fill in the information on it, the  
12 mileage on the truck, and make and model?

13 A No.

14 Q Do you recall who filled that out for you?

15 A No, I don't.

16 Q Who asked you to take that truck over, do you  
17 recall that? Not the particular person -- his job,  
18 his job title.

19 A One of the men in the office. I can't remember  
20 now who it was.

21 Q Had you ever done that before?

22 A No.

23 Q Did he explain to you what he wanted you to do?

24 A Yes, he explained to me what to do, you know,  
25 just take it over there and he would give me bus fare back.

[6]

1 Q Did he tell you who to talk to when you got there?

2 A I leave it at the Avis branch there, see.

3 Q Was the purpose of that contract, Exhibit A there,  
4 explained to you when you signed it? Did he tell you  
5 what it was for or what it meant?

6 A No, I didn't pay too much attention to it.  
7 I didn't read it or nothing. I signed it and went on.

8 Q They just told you, you had to sign that thing to  
9 take the truck?

10 A Yes.

11 Q As an employee of Avis, were you authorized to  
12 drive the trucks as part of your job regularly?

13 A Yes. Around.

14 Q Out of town regularly?

15 A Yes. They got a truck, like a truck breaks down  
16 or something in town, I would take my truck out and  
17 pick up the other one.

18 Q When they asked you to take that particular truck  
19 over to Akron, did anybody check your license to see it  
20 was current? Your driver's license.

21 A I don't know whether anybody -- I don't think  
22 they did, because they usually check our license once  
23 a year.

24 Q They didn't ask you about your driving record  
25 when they asked you to do that?

1 A No.

2 Q When you got to Akron, do you recall what you did  
3 with the truck?

4 A Yes. I dropped it off at the Avis branch.

5 Q Did you have to take any documents or go see any-  
6 body there?

7 A Well, the branch manager was there.

8 Q Did you have a contract or anything that he had to  
9 sign, to show you were giving him the truck?

10 A No.

11 Q Do you know what you did with the copies of that  
12 agreement, Exhibit A?

13 A I don't know what I did with it. It's been about  
14 four, five years ago since I drove the truck out of town.

15 Q Were you paid for driving that truck?

16 A Yes.

17 Q Was this in addition to your regular salary?

18 A You mean was that in with my salary?

19 Q Yes. Or did you get paid somehow separately  
20 for driving that truck?

21 A I think he gave me -- paid me separate for driving  
22 this truck.

23 Q Do you remember how much, how it was figured,  
24 how they decided how much it would be?

25 A I think he said five or six dollars, I think it

1 was 30 miles.

2 Q Was it based on so much a mile, was it a set  
3 amount?

4 A I think it was based on mileage, I think.

5 Q Do you recall who paid you?

6 A The man at the counter, I can't remember now who  
7 it was.

8 Q The man in Akron, or in Cleveland?

9 A Cleveland.

10 Q How did he pay you? Check, cash?

11 A Check.

12 Q Did you say "cash" or "check"?

13 MR. LAYTON: What did you say?

14 THE WITNESS: Cash.

15 Q (By Mr. Hipple) Did he give you any specific  
16 route to follow to get over there?

17 A No.

18 Q Did he give you any specific time to be there?

19 A No.

20 Q Do you know who checked the mileage on the truck  
21 at each end?

22 A I don't know who checked it from where I left on,  
23 because they usually have the mileage there, you know,  
24 on the counter, and they just write it down.

25 Q How about the other one, Akron?



1 A Nobody checked it there while I was there.

2 I just carried it there and dropped it off and left.

3 Q Were you given any kind of instructions or  
4 information before you left, by the people in Cleveland,  
5 what to do and where to go?

6 A They just told me to take it to Akron.

7 Q Did they tell you about what would happen if you  
8 got a speeding ticket on the way?

9 A If you get a speeding ticket, you have to pay for  
10 it yourself.

11 Q Did they tell you that?

12 A Well, they didn't tell me, then, but they had told  
13 me, because I got one once and they told me, "You pay  
14 for your own speeding ticket."

15 Q Did they tell you what would happen if the truck  
16 broke down on the way, what to do?

17 A Call in.

18 Q Did they tell you that specifically, or did you  
19 know that from your regular job?

20 A Well, they tell you, if anything happens, to call.

21 Q Did they give you the number to call?

22 A No, they didn't give me no number; I know the  
23 number.

24 Q How about if you had an accident, did they tell  
25 you what to do if you had one?

1 A. No.

2 Q Do you know what to do, anyway?

3 A If I am still alive, I call in.

4 Q Do you know if you are covered by auto insurance  
5 while you are driving the truck, this particular truck?

6 A Did I know I was covered by insurance?

7 Q Yes.

8 A Well, we went through that, you was supposed to be  
9 on your own.

10 Q While you were driving the truck?

11 A Yes. If you ain't on the clock; but I am on  
12 the clock, you know, you --

13 Q If you are driving on your own, like this time  
14 you went to Akron, did they tell you whether or not you  
15 were covered by insurance if you had an accident?

16 A No.

17 Q You were not covered? Or they didn't tell you?

18 A Well, I knew I wasn't covered, because they had  
19 talked about that once before down there.

20 Q What did they tell you about that, what was said?

21 A They just -- you was on your own, if you take a  
22 truck out.

23 I didn't take no more after that.

24 Q Do you know whether or not Social Security or  
25 Unemployment taxes or Withholding taxes were taken out

1 of the cash they paid you for this?

2 A No.

3 Q Did they say anything about the payroll taxes?

4 A No.

5 Q I didn't hear your answer.

6 A They didn't say anything about that.

7 Q Do you know anybody else who did any shuttling  
8 during that period of time?

9 A They got some fellows that come in there that do  
10 shuttling.

11 Q Do you know any of them?

12 A I know them when I see them.

13 Q You don't know their names?

14 A Not personally.

15 All the ones I knew, they done quit shuttling;  
16 they just come in there and go, they come in there and  
17 if they got something to do they do it. If not, they  
18 just keep on going.

19 Q Do you know of anybody else who shuttled a truck  
20 either once or more than once who was a full-time  
21 employee of Avis, like you?

22 A No.

23 Q When they gave you that truck to drive over to  
24 Akron, did they give you anything besides the keys and  
25 vehicle transfer contract?

1 A That is all.

2 Q Do you know whether or not there was a foreman or  
3 head shuttler that handled the rest of the shuttlers?

4 A No.

5 Q When you got back to Cleveland after taking that  
6 truck to Akron and received payment in cash, did you  
7 have to sign anything, a receipt of some kind?

8 A No, I didn't sign nothing.

9 The only thing I signed was this (indicating),  
10 and he paid me before I left.

11 Q Did you turn that in when you got back to  
12 Cleveland?

13 A I don't know whether I turned that thing in or not.  
14 It's been so long.

15 MR. HIPPLE: That is about all I have.  
16 Do you have anything?

17 MR. LAYTON: No questions.

18 MR. HIPPLE: Thank you.

19 - - -

20 (DEPOSITION CONCLUDED)

21 - - -

22 \* \* \* \*

23 [Reporter's Certificate omitted in duplicating]

24

25

IN THE UNITED STATES DISTRICT COURT  
FOR THE EASTERN DISTRICT OF NEW YORK

AVIS RENT A CAR SYSTEM,

Plaintiff,

vs.

UNITED STATES OF AMERICA,

Defendants.

No. 7 O-C-7 O

[Filed April 9, 1973]

DEPOSITION OF LELAND MOORE

Phoenix, Arizona  
March 5, 1973  
10:15 o'clock a.m.

PREPARED FOR:

U.S. ATTORNEY'S OFFICE

C O P Y

1 THE DEPOSITION OF IRVING MOORE,  
2 taken at 10:15 o'clock a.m., on March 5, 1973, in  
3 the UNITED STATES ATTORNEY'S OFFICE, 230 North First  
4 Avenue, Phoenix, Arizona, before HARVIN J. ARWOOD, a  
5 Notary Public in and for the County of Maricopa,  
6 State of Arizona.

7 The plaintiff was represented by its attorney,  
8 MR. SPURST STILMAN, 900 Old Country Road, Garden  
9 City, New York.

10 The defendant was represented by its attorney,  
11 the UNITED STATES ATTORNEY'S OFFICE, by Mr. Robert  
12 Hippie, Trial Attorney, Tax Division, Department of  
13 Justice, Washington, D.C.

14  
15 S T I P U L A T I O N  
16

17 IT IS STIPULATED by and between counsel for the  
18 respective parties hereto that the deposition of  
19 IRVING MOORE may be taken at this time and place  
20 before HARVIN J. ARWOOD, a Notary Public in and for  
21 the County of Maricopa, State of Arizona, pursuant  
22 to the Rules of Federal Procedure.

23 IT IS FURTHER STIPULATED that all objections,  
24 except as to the form of the question propounded,  
25 are reserved until the time of trial, except that  
26 counsel do not waive the right to make any objection



[3]

1 During the taking of the deposition.

2 IT IS FURTHER STIPULATED that the witness has  
3 waived the reading and signing of the deposition and  
4 notice of filing and other formalities required by  
5 law for the taking and returning of the said  
6 deposition are waived.

7  
8 Phoenix, Arizona  
9 March 5, 1973  
10 10:15 o'clock a.m.

11 L E L A N D M O O R E,  
12 called as a witness herein, having been first duly  
13 sworn, was examined and testified as follows:

14  
15 EX A M I N A T I O N

16 BY MR. HYPOLIS:

17 Q Would you state your full name and address,  
18 please?

19 A Leland William Moore, 2002 North Van Ness,  
20 Tempe, Arizona.

21 Q Your current occupation?

22 A I'm a Social Welfare Program Manager.

23 Q We'll be talking about the period from '62  
24 to '66; were you employed during that period of  
25 time?

26 A Yes.

1 Q Where were you employed then?

2 A Well, here and there.

3 Q Okay. During that period of time did you  
4 have any relationship with Avis?

5 A Once.

6 Q Okay. And what was that relationship?

7 A I drove a car from Tucson to Phoenix.

8 MR. STILLMAN: Wait a minute, just stop for a  
9 minute.

10 (Whereupon, an off the record discussion  
11 then ensued.)

12 BY MR. HIRSHLE:

13 Q How did you find out about the car shuttling  
14 from Avis?

15 A Well, I was at the Arizona State Employment  
16 Office signing up for employment, and a man just  
17 happened to come in while I was sitting there and  
18 asked for two men to help shuttle cars for them.

19 Q Do you remember who that man was?

20 A No, I don't.

21 Q Was he an employee of Avis, do you know?

22 A I believe he was, but I'm not real sure.

23 Q You mean you don't recall or he didn't tell  
24 you?

25 A He didn't tell me.

26 Q He picked up somebody else at the same time?

[5]

1 A Yes.

2 Q Do you remember his name?

3 A No, I don't, I never seen him before.

4 Q Did he explain to you or give you any  
5 information about what he wanted you to do?

6 A Yes, he did. He explained that he was going  
7 to take the two of us to Tucson to pick up two cars  
8 and bring them back to Phoenix. One of the cars was  
9 in Tucson, one of them, I believe, was in Coolidge.

10 Q And he drove you over himself?

11 A Yes, he did.

12 Q All right. Did you have to fill out any  
13 kind of personal information form before you went,  
14 name, address, phone number, that sort of thing?

15 A Not that I can recall. I don't remember  
16 filling out anything.

17 Q Do you know whether or not Avis kept a list  
18 of names of people who had done this before?

19 A I have no idea.

20 Q When you picked up the car in Tucson were  
21 there any kind of documents or contracts, anything  
22 like that that you had to sign to bring it back?

23 A No, I didn't sign anything. I don't know if  
24 the man who took us down there did or not, but I  
25 didn't.

26 Q I show you what has been marked as

1 Officer John Williams A. Have you ever seen any  
2 document like that when you picked up the car, the  
3 Vehicle Transfer Contract?

4 A No, I didn't.

5 Q Do you recall if you were asked for your  
6 Social Security number?

7 A I don't remember him asking any information  
8 about me.

9 Q Driver's license?

10 A He did ask for a driver's license, and I did  
11 show him that.

12 Q Did he ask you about your driving record,  
13 speeding tickets, accidents, that sort of thing?

14 A Not that I can recall.

15 Q Did he ask you for your home address or  
16 phone number?

17 A Not that I can remember, no.

18 Q Did he ask any other kind of information  
19 about you that you recall, any kind of an interview,  
20 or anything?

21 A No, I don't recall anything. He said very  
22 little, so he just asked if I had a driver's license  
23 and if I would like to do the job, and that was  
24 about it.

25 Q All right. To the best you can recall now  
26 could you describe in general the person that took

[7]

1 place from the time he picked you up until the time  
2 that you got to Tucson, and then back to Phoenix?

3 A Well, okay. We left right from the  
4 Employment Office here in Phoenix and in his car  
5 went directly to Tucson without stopping where we  
6 picked up a car, and I don't really remember where  
7 it was in Tucson, I'm not that familiar with Tucson  
8 anyway. I picked up that car and followed him, and  
9 we went to some garage in Coolidge, if I remember  
10 right, where we picked up another car. The other  
11 man that went with us drove it, and I followed the  
12 two of them on into Tucson, to -- I mean rather into  
13 Phoenix where we took the -- both these cars to the  
14 airport. Then we both got back in the car with this  
15 man we started with and went back to the Employment  
16 Office.

17 Q Was the car that he drove you over to Tucson  
18 in an Avis rental car, do you know?

19 A I don't know. It wasn't marked and he  
20 didn't say.

21 Q Did you know you were driving a car for  
22 Avis?

23 A Yes, I did, he explained that.

24 Q That was when he first asked you if you  
25 wanted to do it?

26 A Right.

E

1 Q Do you recall whether or not it was an Avis  
2 office you went to in Tucson?

3 A I don't remember to tell you the truth. I  
4 don't think it was, I don't remember seeing a sign  
5 anywhere.

6 Q Were you compensated for the trip over and  
7 back?

8 A Yes, I was.

9 Q How were you paid?

10 A I was paid in cash.

11 Q By him or by Avis?

12 A By him.

13 Q Do you know where he got the cash? Out of  
14 his pocket?

15 A He had it in his wallet.

16 Q Was there any kind of a check-in procedure  
17 at the airport at the Avis office?

18 A Well, I think he checked the cars in there,  
19 but I didn't really watch what he was doing. He  
20 talked to someone there, but I had nothing to do  
21 with it.

22 Q Do you know whether or not he was paid at  
23 the time by Avis?

24 A I have no idea.

25 Q How was the amount fixed that you got?

26 A How was it fixed?



[9]

1 Q Yeah, how did he know how much to pay you?

2 A Well, when I first talked to him he said  
3 that he would like me to do this job, and he said he  
4 would pay me, if I remember correctly, \$5 for it,  
5 and I agreed and that was it.

6 Q Was anything said about a specific route to  
7 follow back or a specific time at which to be back?

8 A Yes. I asked him about that, and I said,  
9 "What if I get lost somewhere? How am I supposed to  
10 know where to go?"

11 And he said, "Well, you just follow me," and  
12 that was it.

13 Q Was anything said about using the car for  
14 any particular purposes on the way over or back?

15 A No, nothing.

16 Q Was the mileage checked on the car at either  
17 end?

18 A I have no idea. I didn't check it.

19 Q You didn't see anybody else check it?

20 A No, I didn't.

21 Q Do you recall any other kind of instructions  
22 or information given to you other than when he  
23 picked you up downtown or in Tucson or when you got  
24 back?

25 A Well, the only other thing that I asked  
26 about before -- when we left -- was where we would be

1 covered in any way in case we had an accident or  
2 something, and he said yes, the Company insurance  
3 would cover us, and I don't remember any other  
4 instructions other than that.

5 Q Okay. He said the Company insurance would  
6 cover you? Did he mean just for damage to the car  
7 or including injury to you?

8 A Well, I assumed he meant injury to me also,  
9 but I don't remember if I asked that specifically.

10 Q Okay. Was it explained what would happen if  
11 you got a speeding ticket on the way back?

12 A I never thought about it, it wasn't  
13 explained, no.

14 Q How about if the car broke down?

15 A No, he didn't say anything about that.

16 Q Was anything said about if you did have an  
17 accident the procedure to follow or what to do?

18 A No, he didn't say any procedures.

19 Q Do you know whether Social Security and  
20 unemployment taxes or withholding taxes were taken  
21 out of the amount he paid you?

22 A Not that I know of.

23 Q Was anything said about payroll deductions  
24 at the time?

25 A Nothing.

26 Q Did you ask about it?

[ ]

1 A No, I didn't.

2 Q Do you know anybody else who shuttled a car  
3 under these same circumstances during that period of  
4 time?

5 A Well, just the man who was with us, but as I  
6 said I don't know what his name was or anything  
7 about him.

8 Q And you don't know anything at all that  
9 could help us identify the man who came down and  
10 asked you two if you wanted to do it?

11 A No. I wish I could. I can't think I could  
12 even identify him if I saw him.

13 Q Did he in any way indicate whether he was an  
14 employee or not, a representative of Avis?

15 A Well, he did represent -- he was represent-  
16 ing Avis, he did indicate he was representing Avis.

17 Q Did you ever see any advertisements for  
18 shuttlers in the newspaper or anything like that in  
19 this area?

20 A No, not that I know of.

21 Q Was this the one time and the only time that  
22 you did it?

23 A Yes, it is.

24 Q Do you recall if you were given anything  
25 else when you got the car besides the keys and  
26 perhaps the registration?

1 A No, just the keys.

2 Q Okay. Do you know if you were covered by  
3 health insurance or any other fringe benefits of  
4 Avis?

5 A The only thing that I knew was what he said  
6 about my being covered in case of an accident; how-  
7 ever, I am not sure, as I said, whether that covered  
8 me or just the car.

9 Q Did you ever file a claim for any kind of  
10 fringe benefits from this?

11 A No, I didn't.

12 Q Did you ever have to share any part of that  
13 fee or compensation that you got with anybody else?

14 A No.

15 Q Were you ever approached to do so?

16 A No, I wasn't.

17 Q Other than the man who came down to the  
18 Employment Office did you have any contact with any-  
19 one who was a full-time employee of Avis, so far as  
20 you know?

21 A No, I didn't.

22 Q Did you talk to anybody who shuttled besides  
23 the man who came down there to pick you up?

24 A Just the man who was riding with us and  
25 drove the other car. I never did talk to anyone  
26 else.

[3]

1 Q Did you have any kind of identification card  
2 or badge or anything like that to indicate you were  
3 renting the car for Avis?

4 A No, I didn't.

5 Q Anything to indicate that the car was an  
6 Avis car when you were driving? For example, if  
7 somebody stopped you and said, "Where did you get  
8 the car?"

9 A Well, I guess I was kind of dumb, but I  
10 didn't have anything at all.

11 Q Okay. Do you know of any kind of records  
12 that Avis has to show the circumstances of the  
13 shuttle or the dates, amounts of any payments, any-  
14 thing like that, any documents that you saw?

15 A I didn't see anything, no.

16 Q Did you have to sign a receipt, a petty cash  
17 slip or anything like that for payment?

18 A I don't really remember. I don't think so,  
19 but I don't remember.

20 Q Do you recall signing anything?

21 A No, I don't recall.

22 Q Okay. Do you know of anyone who shuttled  
23 cars under these same circumstances who was not  
24 allowed to do it again for any reason?

25 A No, I don't.

26 Q Now, Mr. [redacted], do you have any questions? Is there a

1 second.

2 BY MR. HEPPLE:

3 Q Would you know the name of the man who rode  
4 with you if I gave you some names?

5 A I seriously doubt it. That's the only time  
6 I ever saw him, and I'm not very good at remembering  
7 faces.

8 Q Well, let me show you a list of names all on  
9 the same date as the day you drove. Right here.  
10 This is out of that warehouse list. See if you can  
11 recognize any of those names, any of those people.

12 A Starting here?

13 Q Yeah. See, here are the dates over here,  
14 the sixth of March, '62. Your name is in that  
15 group.

16 A All right. No, I don't see any names there  
17 I recognize.

18 MR. HEPPLE: Okay. That will do it then.  
19 Thanks for coming down.

20 MR. STEINMAN: No questions.

21

22 (Signature waived.)

23

24 \* \* \* \*

25 [Reporter's Certificate omitted in duplicating]

26



IN THE UNITED STATES DISTRICT COURT  
FOR THE EASTERN DISTRICT OF NEW YORK

AVIS RENT A CAR SYSTEM,

Plaintiff,

vs.

UNITED STATES OF AMERICA,

Defendants.

[Filed - April 9, 1973]

No. 70 C 70

DEPOSITION OF GEORGE BROODER

Phoenix, Arizona  
March 5, 1973  
9:45 o'clock a.m.

PREPARED FOR:

U. S. ATTORNEY'S OFFICE

1 THE DEPOSITION OF GEORGE BROODER,  
2 taken at 9:45 o'clock a.m., on March 5, 1973, in the  
3 UNITED STATES ATTORNEY'S OFFICE, 230 North First  
4 Avenue, Phoenix, Arizona, before MARVIN J. ATWOOD, a  
5 Notary Public in and for the County of Maricopa,  
6 State of Arizona.

7 The plaintiff was represented by its attorney,  
8 MR. STUART STILLMAN, 900 Old Country Road, Garden  
9 City, New York.

10 The defendant was represented by its attorney,  
11 the UNITED STATES ATTORNEY'S OFFICE, by Mr. Robert  
12 Hipple, Trial Attorney, Tax Division, Department of  
13 Justice, Washington, D.C.

14  
15 S T I P U L A T I O N  
16

17 IT IS STIPULATED by and between counsel for the  
18 respective parties hereto that the deposition of  
19 GEORGE BROODER may be taken at this time and place  
20 before MARVIN J. ATWOOD, a Notary Public in and for  
21 the County of Maricopa, State of Arizona, pursuant  
22 to the Rules of Federal Procedure.

23 IT IS FURTHER STIPULATED that all objections,  
24 except as to the form of the question propounded,  
25 are reserved until the time of trial, except that  
26 counsel do not waive the right to make any objection

1 during the taking of the deposition.

2 IT IS FURTHER STIPULATED that the witness has  
3 waived the reading and signing of the deposition and  
4 notice of filing and other formalities required by  
5 law for the taking and returning of the said  
6 deposition are waived.

7  
8 Phoenix, Arizona  
9 March 5, 1973  
10 9:45 o'clock a.m.

11 GEORGE BROODER,  
12 called as a witness herein, having been first duly  
13 sworn, was examined and testified as follows:

14  
15 EXAMINATION

16 BY MR. HIPPLE:

17 Q Will you state your name and current  
18 address, please?

19 A My name is George G. Brooder, B-r-o-o-d-e-r.  
20 My address is 7023 Leisure Lane, Carefree, Arizona.

21 Q Are you currently employed?

22 A For the record I would like to have  
23 assurance that I am not being charged --

24 MR. HIPPLE: No, that's what I said. We're not  
25 interested --

26 MR. STILLMAN: He wants it on the record, he's



1 convertible to Phoenix. They happened to know that  
2 I was coming to Phoenix, and they offered me the car  
3 to bring down for them.

4 Q Was that --

5 MR. STILLMAN: Off the record for a moment.

6 (Whereupon, an off the record discussion  
7 then ensued.)

8 BY MR. HIPPLE:

9 Q Was that the only time you did it?

10 A That's the only time.

11 Q Do you know how they found out about your  
12 coming down to Phoenix?

13 A Western Air Lines' station manager at Denver  
14 was in close contact with the Avis people at the  
15 airport. He knew that I was planning the trip to  
16 Phoenix, and he told me Avis was desirous to trans-  
17 fer some cars from Denver to Phoenix for the season  
18 operation in Phoenix, and he was told by the Avis  
19 representative that they would like to have me, if I  
20 cared to drive this Cadillac convertible down for  
21 them.

22 Q Do you know why he was in close contact with  
23 the Avis people?

24 A Well, of course, he worked with all the car  
25 rental agencies up there in the normal course of his  
26 duties.

1 Q And what capacity -- why did he work with  
2 them?

3 A Well, he didn't work for them, he worked  
4 with them as a representative of Western Air Lines  
5 frequently contacted by our passengers to obtain a  
6 car for them on their arrival at Denver.

7 Q Do you know if he arranged or got in contact  
8 with anyone in connection with other shuttlers  
9 between different cities?

10 A Any other rental services you mean?

11 Q Such as you moving the car down here?

12 A To the best of my knowledge Avis was the  
13 only one who engaged in that practice of transfer-  
14 ring cars back and forth between Denver and Phoenix.

15 Q Do you know anyone else who shuttled a car  
16 such as you did?

17 A I don't know the name. I do know that from  
18 time to time some of our employees would drive a car  
19 down for them on their days off, because they were  
20 able to fly back on free transportation, and as far  
21 as I know all they got out of it was to be reim-  
22 bursed for gasoline purchases.

23 Q Was the shuttling operation explained to you  
24 by anyone, what had to be done?

25 A Would you repeat the question?

26 Q Was the shuttling operation explained to



1 you, what had to be done or what you had to do?

2 A I'm afraid I don't understand.

3 MR. STILLMAN: Why don't you ask him was he  
4 instructed to do anything?

5 BY MR. HIPPLE:

6 Q Were you given any instructions or any  
7 information on how you were to shuttle the car or  
8 what you were to do?

9 A The only instruction was when the car was  
10 turned over to me at the airport in Denver, I was  
11 instructed to deliver it to the Avis representative  
12 at the airport in Phoenix.

13 Q Do you remember who told you that, not his  
14 name but his capacity?

15 A No, I don't.

16 Q Was it an Avis --

17 A Avis representative.

18 Q Did you have to fill out any forms, any  
19 personal information before you could shuttle?

20 A No.

21 Q Do you know if Avis kept a list of people  
22 who had done shuttling in the past?

23 A To my knowledge I do not know.

24 Q Did you have any kind of documents or papers  
25 or anything when you moved the car?

26 A No.

[8]

1 Q There were no shuttle or transfer documents  
2 to get the car from there to here?

3 A I don't recall any paper that was given to  
4 me. It could be, but that was 10 years ago.

5 Q Do you recall signing anything?

6 A Sir?

7 Q Do you recall signing anything?

8 A I don't recall signing.

9 Q Do you recall if you were asked for your  
10 Social Security number?

11 A To my recollection I was not asked any such  
12 information.

13 Q Were you asked to see your driver's license?

14 A As I recall the only thing they asked me was  
15 if I had a valid driver's license.

16 Q They didn't ask to look at it?

17 A No.

18 Q Did they ask you about your driving record?

19 A No.

20 Q Did they get your home address and phone  
21 number?

22 A I assume that they did, but I don't recall.

23 Q You don't specifically recall giving them  
24 your phone number?

25 A No.

26 Q Was there any kind of an interview of any

1 kind before you could drive the car down?

2 A Any kind of review?

3 Q Interview.

4 A No.

5 Q To the best you can recall can you describe  
6 the steps that took place from the time you picked  
7 up the car in Denver until the time you delivered it  
8 down here, any check-in procedures or check-out  
9 procedures, anything of that nature?

10 A Well, to the best of my recollection the  
11 only thing they did was take the mileage reading,  
12 and they didn't even ask me how I planned to rout  
13 myself or when I expected to get down here. The  
14 only told me to turn in my gasoline slips and I  
15 would be reimbursed.

16 Q Was there a form they used to write do the  
17 milcage, do you remember?

18 A I don't recall.

19 Q When you got to Phoenix was there a check-in  
20 procedure that you had to go through?

21 A The only procedure that I recall was this  
22 Avis man walked around the car to see that it hadn't  
23 been -- to see if there was any damage to it prior  
24 to accepting it.

25 Q Were you compensated for driving the car  
26 from Denver to Phoenix?

1 A No.

2 Q Did you have any expenses on the way?

3 A Any --

4 Q Any expenses on the way?

5 A Well, the only expenses, of course, was  
6 motel and meals, but the only thing that I was  
7 reimbursed for was gasoline.

8 Q Were you given any specific time in which to  
9 get to Phoenix?

10 A No.

11 Q Were you allowed to use the car for any  
12 personal reasons on the way?

13 A No.

14 Q Did they tell you that?

15 A Well, no, they didn't tell me that. I  
16 suppose that they just left that to my discretion.

17 Q You just didn't use it?

18 A All I used it for was for transportation.

19 Q How did you get back to Denver?

20 A I flew back Western Air Lines.

21 Q Was that free or did you have to pay for a  
22 pass?

23 A No, I carried an annual pass.

24 Q And the pass doesn't cost anything?

25 A No.

26 Q Was it explained to you what would happen if

1 you got a speeding ticket on the way?

2 A. Would you repeat that?

3 Q. Was it explained to you what would happen if  
4 you got a speeding ticket on the way down?

5 A. I don't recall if that was even mentioned.

6 Q. Okay.

7 A. However, I didn't.

8 Q. Was it explained to you what would happen if  
9 the car broke down or what to do?

10 A. There was no instructions.

11 Q. Nothing in case of an accident either?

12 A. No.

13 Q. They didn't tell you to call anybody or  
14 anything?

15 A. No.

16 Q. Do you know whether you were covered by  
17 automobile insurance maintained by Avis while you  
18 were driving the car?

19 A. No, I do not know.

20 Q. Do you recall anyone by name who was  
21 shuttling cars during that same period of time?

22 A. No, I do not.

23 Q. You do recall some people who worked for  
24 Western Air Lines who were doing it though?

25 A. Well, as I told you before the only thing  
26 that I knew about was that from time to time some of



1 our employees as well as some of the employees of  
2 another air lines would transfer a car down.

3 Q Do you know anything about the circumstances  
4 or the agreement that they were driving the car?

5 A No, I do not.

6 Q Do you know of anyone who was a full-time  
7 regular employee of Avis who was driving cars?

8 A I do not.

9 Q Did you ever see any advertisement for  
10 shuttlers in a newspaper or anything?

11 A No, I didn't.

12 Q Do you recall if you were given anything at  
13 all when you got the car besides the keys and  
14 registration?

15 A That's the only thing that I can recollect  
16 at this time.

17 Q Let me show you what we have marked for as  
18 Defendant's Exhibit A and see if you remember seeing  
19 one of these.

20 A It's possible that they did give me some-  
21 thing like that, but I don't recall it.

22 Q Okay. Do you know whether you were covered  
23 by health or accident insurance maintained by Avis  
24 while you were driving?

25 A I don't know.

26 Q Did anybody say anything about any fringe



1 benefits?

2 A No, because I was covered by my own  
3 policies.

4 Q Did you ever file a claim for any kind of  
5 benefits with Avis?

6 A No.

7 Q Was there a foreman or a head shuttler that  
8 you dealt with at the Avis counter at the airport,  
9 someone in charge of the shuttling operation?

10 A No. As I recall the car was delivered to  
11 Western Air Lines' station manager who turned it  
12 over to me.

13 Q Did you have any kind of identification or a  
14 card or badge to identify you as an Avis shuttler?

15 A No.

16 Q When you arrived in Phoenix and turned the  
17 car in and you were reimbursed for your expenses,  
18 did you sign a petty cash slip or any kind of  
19 receipt?

20 A I was paid cash only for my gasoline  
21 receipts.

22 Q Did you sign a petty cash slip or receipt to  
23 show that you had received payment?

24 A I believe I probably did, although I  
25 couldn't swear to it.

26 Q You don't remember anything now about what

1 that petty cash slip looked like or --

2 A I assume that they would have to have some-  
3 thing to justify the disbursement, and I probably  
4 signed it.

5 Q But you can't recall anything?

6 A I don't recall that, no.

7 Q Do you know of any individual who shuttled  
8 cars for Avis in the past who was not allowed to do  
9 it again for some reason?

10 A No, I do not.

11 Q Were you ever asked to shuttle a car again?

12 A No, I wasn't.

13 Q Do you know of anyone in Denver who only  
14 shuttled a car from the airport to downtown or  
15 downtown to the airport rather than the long  
16 distance you went?

17 A No, I do not.

18 MR. HIPPLE: That's all I've got.

19 MR. STILLMAN: No questions.

20

21

(Signature waived.)

22

23

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24

[Reporter's Certificate omitted in duplicating]

25

26

CERTIFICATE OF SERVICE

*with the  
exception  
to Vol. V*

It is hereby certified that service of this appendix has been made on opposing counsel by mailing four copies thereof on this 11<sup>th</sup> day of March, 1974, in an envelope, with postage prepaid, properly addressed to him as follows:

Robert Layton, Esquire  
Layton and Sherman  
375 Park Avenue  
New York, New York 10022

*Meyer Rothwacks* / *auth*  
Meyer Rothwacks,  
Attorney.